

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 6, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, September 6, 2001 at 1:00 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Elizabeth Bishop; Bill Johnson; Kerry Coulter; Bud Hentzen; Don Anderson; Ron Marnell; Ray Warren; David Wells; and Dorman Blake. Harold Warner; Frank Garofalo; James Barfield; John W. McKay, Jr.; were not present. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner and Rose Simmering, Recording Secretary.

1. **Approval of MAPC meeting minutes for August 9, 2001.**

MOTION: That the minutes for August 9, 2001 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (9-0).

James Barfield in at 1:25
Dorman Blake out at 1:40

2. **Annual Review of the Wichita-Sedgwick County Comprehensive Plan. (Discussion will be continued after zoning hearings).**

Annual review of the Wichita-Sedgwick County Comprehensive Plan was continued to a later time.

3. **Subdivision Committee items 3-1 to 3-7 were taken as a single item.**

MOTION: Warren moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-1. **SUB2000-00077 – One-Step Final Plat of COLLECTIVE ADDITION, located on the southeast corner of K-96 and 21st Street North.**

- A. The applicant shall provide a guarantee for the extension of sanitary sewer and City water.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. An off-site drainage easement will be needed. A drainage guarantee is needed. A letter from KDOT shall be provided indicating their agreement to accept the drainage directed onto K-96.
- D. In accordance with the CUP approval, a decel lane on 21st St. is needed.
- E. In accordance with the CUP approval, the plat proposes one access opening along both 21st St. and Wawona for a private street. A name shall be designated for the private street.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- G. For those reserves being platted for private street and drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. A guarantee is required for the paving of Wawona to the south property line.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. In accordance with the Sidewalk Ordinance, as a commercial subdivision abutting a non-arterial street, a sidewalk shall be constructed along Wawona. A sidewalk Certificate shall be provided assuring sidewalks will be built concurrently with development.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 3-1 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-2. SUB2001-00047 – Final Plat of BLUESTEM ACRES SECOND ADDITION, located on the north side of 61st Street South and east of 279th Street West.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. A drainage plan is needed and additional floodway reserves denoted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A floodway reserve is needed in Lots 1 through 5, 13 and 14, Block 2, and in Lots 2, 3, and 4 of Block 1. A lot grading plan is needed.
- D. The applicant shall guarantee the installation of the proposed interior streets to the suburban street standard, with the exception of Busy Bee Ct which may be constructed with a 32-ft gravel surface. The street shall be approved and accepted by the county or township prior to the application or issuance of any building permits for individual lots.
- E. The Applicant proposes a 70-ft contingent dedication of street right-of-way extending to the east line of the plat in order to provide potential street connection to adjoining properties. On the final plat, the contingent dedication of right-of-way needs to be referenced in the plat's text as becoming effective "upon the platting of any adjacent subdivision having a street connecting thereto". The dedication should be labeled as a "contingent street dedication".
- F. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-foot wide easements be platted in order to allow for the installation of the utilities without damage to such tree rows.

The 30-ft easements have been platted as requested.

- G. The County Fire Department/GIS needs to comment on recommendations for the plat's street names. Busy Bee Court shall be labeled "Busy Bee Ct".
- H. The pipeline easement agreements appear to indicate a 25-ft pipeline setback. This setback shall be indicated on the face of the plat and labeled as a Koch Pipeline Setback."
- I. Lots 11, 14 and 15, Block 2 have been platted with increased setbacks in order to conform with the 200-ft lot width standard which is measured at the building setback line.
- J. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. A restrictive covenant shall be submitted identifying the pipeline within the various lots.
- K. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications (20 feet wide).

MOTION: That item 3-2 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-3. SUB2001-00068 – Final Plat of ECK NINTH ADDITION, located on the south side of 53rd Street North, west of 247th Street West.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what

standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. An updated layout denoting drainage reserves needs to be provided.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A detailed final drainage plan is needed and additional drainage reserves are required. A lot grading plan is also needed.
- D. County Fire Department needs to comment on the street length of 53rd St. . Ct., which is 2,100 feet exceeding the 1,200-ft limitation of the Subdivision Regulations. The street length is approved contingent upon the installation of a 36-ft wide rock road and contingent street right-of-way dedication to the east and west. The Subdivision Committee has approved a modification.
- E. The applicant shall guarantee the installation of the proposed street to the 36-ft rock suburban street standard. The street shall be approved and accepted by the county/township prior to the application or issuance of any building permits for individual lots.
- F. County Engineering has required a 70-ft contingent dedication of street right-of-way extending to the east and west line of the plat in order to provide potential street connection to adjoining properties. The plat's text needs to be revised to reference Lots 3, 4, 13 and 14, Block A.
- G. The County Fire Department needs to comment on the plat's street names. The street name needs to be revised to N. 53rd Ct.

The requested street name has been platted.

- H. The Applicant has indicated a blanket pipeline easement for the area involved in this plat. The Applicant shall either obtain a release of this easement or provide proof that the easement has been confined. If confined, any portion of this easement impacting this site shall be denoted on the plat and shall be properly referenced. A recorded copy of the release/confinement of the easement shall be submitted.
- I. Lots 8 and 9 have been platted with increased setbacks in order to conform with the 200-ft lot width standard which is measured at the building setback line.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications (20 feet wide with applicable turnaround with an all-weather surface able to withstand the weight of heavy apparatus in inclement weather).
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind

erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 3-3 be approved. .

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-4. SUB2001-00085 – One-Step Final Plat of DORE ADDITION, located on the south side of 125th Street North, east of Oliver.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A drainage plan and lot grading plan is needed.
- D. The Applicant should provide an off-site 35-ft contingent dedication of street right-of-way along the east property line of his adjoining property to the east in order to provide potential street connection to adjoining properties. This dedication shall be established by separate instrument.
- E. The plat proposes one access opening along 125th St. North. The Subdivision Committee has approved the access controls.
- F. The signature line for the County Commissioners need only reference "Carolyn McGinn".
- G. The Applicant is advised that if platted, the building setback must be increased to 35 feet to conform with the Zoning setback standard for County section line roads.
- H. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has approved a modification.
- I. The Applicant has provided a pipeline easement agreement which appears to indicate a blanket easement for the area involved in this plat. The Applicant shall either obtain a release of this easement or provide proof that the easement has been confined. If confined, any portion of this easement impacting this site shall be denoted on the

plat and shall be properly referenced. A recorded copy of the release/confinement of the easement shall be submitted.

- J. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications (20 feet wide with applicable turnaround with an all-weather surface able to withstand the weight of heavy apparatus in inclement weather).
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell has requested additional easements.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 3-4 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-5. SUB2001-00089 – One-Step Final Plat of WOODHAVEN ADDITION, located on the northeast corner of Hoover and 55th Street South.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. A restrictive covenant is needed addressing domestic disposal only.

- B. County Fire Department has required on-site water for fire protection. The applicant shall discuss with County Fire Department options to meet this requirement.
- C. City Water and Sewer Department has required a petition for future extension of City water and sewer services.

- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering needs to comment on the status of the applicant's drainage plan. A drainage concept has been received.
- F. In accordance with the Conditional Use/ Zone Change approval, the following improvements are required: a) southbound left turn on Hoover at the intersection of 55th Street; b) improved corner radii at the 55th Street and Hoover intersection; c) an east bound left-turn lane on 55th Street at the entrance; and d) a right-turn decel lane at the entrance on 55th Street.
- G. County Engineering has approved one opening along perimeter streets. The site plan submitted with the Conditional Use review denotes one proposed access opening along 55th St. South. Access control except one opening needs to be dedicated along 55th St. South. In accordance with the Subdivision regulations, 150 feet of complete access control is required from the intersection. Complete access control is required along Hoover for a minimum distance of 150 feet from the centerline of the nearest railroad track. Distances should be shown for all segments of access control. The final plat shall reference the access controls in the plat's text.
- H. The recording information for the railroad right-of-way needs to be included on the face of the plat.
- I. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-foot wide easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- J. It is recommended that the parcel located northwest of the railroad right-of-way be platted as a reserve.
- K. County Surveying has advised that standard intersection right-of-way dimensions are required.
- L. County Surveying has advised that the plat does not close.
- M. The signature line for the County Clerk needs to be revised to reference "Don Brace".
- N. The County Surveyor's certificate needs to be corrected to reference "KSA 58-2005."
- O. County Fire Department has required an emergency access paved opening of 20 feet along Hoover.
- P. The MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- Q. The City Council certification needs to be added as this plat is located within three miles of the City of Wichita. The Mayor's signature line should be replaced with the City Manager, preceded above by "At the direction of the City Council".
- R. The signature line for the County Commissioners Chair needs to reference Carolyn McGinn".
- S. The name of the Addition "Woodhaven" shall be referenced correctly in the surveyor's certification.
- T. The Notary Certificate needs to include "Kent Wilkens, President of Waste Disposal LLC" and at the end "on behalf of the corporation".
- U. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- V. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Y. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- EE. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 3-5 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

3-6. SUB2001-00090 – One-Step Final Plat of ALL BOER LAND ADDITION, located west of Tyler Road, on the south side of 53rd Street North.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. Health Department has required a restrictive covenant that prohibits non-domestic uses on the site until public sewer is available.
- B. City Water Department requests a petition for future extension of City water services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. A floodway reserve is needed in the central portion of the plat. A drainage plan is needed.
- E. County Engineering advises that 53rd St. North is an FAS route and the Applicant will need to dedicate a 60-ft street right-of-way. The plat's text shall reference such dedication as being to and for the use of the public.

- F. Access controls need to be dedicated along 53rd St. North, and shall be referenced on the face of the plat and in the plat's text. *County Engineering has permitted one opening along 53rd St. North.*
- G. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications and in accordance with the Zoning Code (20 feet wide paved surface with applicable turnaround).
- H. The Applicant is advised that if platted, the building setbacks may be reduced to 35 feet to conform with the Zoning setback standard for County section line roads.
- I. The Applicant is advised that in regard to the building within the building setback, that while such areas of the existing structures may be retained, no enlargement of the buildings in such areas will be permitted and if removed, all subsequent rebuilding shall observe building setbacks.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. The Maize Planning Commission certification, Maize governing body certification and Maize city attorney's certification may be eliminated.
- L. The Wichita City Council certification needs to be added as this plat is located within three miles of the City of Wichita. The signature block should denote "At the direction of the City Council" above the signature line of the City Manager.
- M. The owners certification and plat title need to be revised to reference "All Boer Land Addition".
- N. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width. *The Subdivision Committee has approved a modification.*
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The final plat tracing shall include language in the plat's text that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind

erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- U. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 3-6 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (11-0).

3-7. DED2001-00025 – Dedication of Access Control from Lindsay –SCC Wichita #1, LLC, for property located on the southwest corner of Kellogg Frontage Road and Hoover.

<u>CASE NUMBER:</u>	<u>DED 2001-25 -- Dedication of Access Control from Lindsay-SCC Wichita #1, LLC, for property located on the southwest corner of Kellogg and Frontage Road and Hoover.</u>
<u>OWNER/APPLICANT:</u>	Lindsay-SCC Wichita #1, LLC, 8700 W. 36 th Street MB #11, Ste #4E, St. Louis Park, MN 55426
<u>LEGAL DESCRIPTION:</u>	Lot 1, except the north 200 feet thereof; Lot 2, except the north 200 feet of the east 75 feet thereof; and the east 96.8 feet of Lot 3, all in Block 3, Western Addition to Wichita, Sedgwick County, Kansas.
<u>PURPOSE OF DEDICATION:</u>	This Dedication is a requirement of Lot Split No. SUB 2001-70, and is being dedicated for access control, except for one opening, along Hoover Road.

Planning Staff recommends that the Dedication be accepted.

MOTION: That item 3-7 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0).

4. Subdivision Committee items 4-1 to 4-4 were taken as a single item.

MOTION: **HENTZEN** moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

4-1. VAC2001-00037 –Request to Vacate utility easement and a portion of a reserve, located northwest of the

Ridge Road – North 29th Street intersection.

CASE NUMBER: VAC2001-00037: Request to vacate utility easements and portion of a reserve.

APPLICANT/OWNER: Forest Lakes Inc c/o Marvin Schellenberg
Forest Lakes Masters Assoc. c/o Dana Copp

AGENT: PEC, PA c/o Gary Wiley

LEGAL DESCRIPTION: Easement and that part of Reserve "D" described:
The 10-ft utility easement common to Lot 39 and Reserve "D", Block 3; Except the north 20-ft and the bottom 20-ft thereof; Beginning at the northwest Corner of Lot 39, Block 3, in said addition, also being on the east line of said Reserve "D"; thence S00 degrees28'12"E along said east line a distance 119.40-ft; thence S89degrees31'48"W, Being the south line of said Lot 39 extended westerly, a distance of 12.59-ft; thence N28degrees 43'46"W a distance of 113.23-ft to a point on the north line of said Reserve "D"; thence along said north line, being a curve to the right having a radius of 170.00-ft; thence along said curve through a central angle of 23degrees 26'23" an arc length of 69.55 ft to the point of beginning.
Easements:
The north 15-ft of the south 35-ft of Lots 18 & 19, Block 4, except the easterly 10-ft thereof;
And
The 10-ft utility easement common to Lots 61 & 62, Block 4, except the north 20-ft thereof;
And
The 10-ft utility easement common to Lots 67 & 68, Block 4, except the south 10-ft thereof;
And
The 10-ft utility easement common to Lots 70 & 71, Block 4, except the north 10-ft thereof;
And
That part of the 20-ft utility easement along the westerly line of Lot 56, Block 4, described as follows:
Commencing at the northwest corner of said Lot 56; thence along the north line of said Lot 56 a distance of 20-ft to a point on the east line of a platted 20-ft utility easement; thence S00degrees28'12"E along said east line a distance of 26.39-ft to the point of beginning; Thence S28degrees43'46" along said east line a distance of 85.61-ft to a point on the south line of said Lot 56: thence along said south line, being a curve to the right having a radius of 234.00-ft; Thence along said curve through a central angle of 2degrees27'14" an arc length of 10.02-ft: Thence N28degrees43'46"W parallel with said east line a distance of 66.36-ft; thence N00degrees 28'12"W a distance of 12.12-ft 5to the point of beginning.

LOCATION: Generally located northwest of the Ridge Road - North 29th St intersection.

REASON FOR REQUEST: To create larger lots.

CURRENT ZONING: Subject property is zoned SF-6 Single Family Residential. Property to the north is zoned SF-20 Single Family Residential and SF-6 Single Family Residential. Properties to the east, south and west are zoned SF-6 Single Family Residential.

The applicant is requesting consideration to vacate the 10-ft utility easements located in between Lots 61-62, 67-68, and 70-71, all in Blk 4, Forest Lakes Add, the 10-ft utility easement between Lot 39, Blk 3 & a triangular shaped portion of Reserve "D" abutting the west side of Lot 39, the northern 15-ft of the 30-ft utility easement along the south edge of

Lots 19-18, Blk 4 and part of the 20-ft utility easement along the western edge of Lot 56, Blk 4, Forest Lakes Add. Reserve "D" is platted for irrigation systems, landscaping, lakes (retention and detention), drainage structures, walks, docks, utilities confined to easements, a clubhouse, pool, parking and all other recreational facilities. The plat was recorded April 1993. The applicant proposes to create larger lots, by boundary shift.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 16, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described utility easements and portion of a reserve and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the utility easements and portion of a reserve described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Provide replacement utility easements.

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Provide replacement utility easements.

MOTION: That item 4-1 be approved.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

4-2. VAC2001-00038 –Request to Vacate Right-of-Way, located northwest of the North 9th Street – Broadway intersection.

CASE NUMBER: VAC2001-00038: Request to vacate right-of-way.

APPLICANT/OWNER: Quick Print of Kansas, Inc

AGENT: Benchmark Land Survey c/o Jeffrey Dettman

LEGAL DESCRIPTION: Beginning at the southeast corner of Lot 141, Lawrence Avenue in Munger's Original Town Add, to Wichita, Sedgwick County, Kansas; thence along the south line of said Lot 141 on an assumed bearing of S90degrees00'00"W for 100-ft; thence S00degrees00'00"E for 15-ft; thence 90degrees00'00"E for 100-ft; thence N00degrees00'00"E for 15-ft to the point of beginning.

LOCATION: Generally located northwest of the N 9th Street – Broadway intersection.

REASON FOR REQUEST: To allow future development.

CURRENT ZONING: Subject property is zoned LC Limited Commercial. Properties to the north, south and east are zoned LC Limited Commercial. Property to the west is zoned B Multifamily.

The applicant is requesting consideration to vacate 15-ft of N 9th St ROW that abuts Lot 141 (lot length along 9th St is 100-ft), Lawrence Avenue in Munger's Original Town Add. Currently this 100-ft x 15-ft strip has concrete paved parking on it and a pole sign, which the applicant has been using and maintaining. The applicant proposes to use the vacant site/building for a restaurant and the parking in the ROW will be needed to meet parking requirements. There have been numerous vacations of the N 9th St ROW, between Water St and Broadway. The exhibit shows seven N 9th St ROW vacations between 1959 – 1980, including vacations to the south of the applicant's site (No. 1 on the exhibit, V-0337, 1965, vacated 17-ft of 9th Street ROW) and on property abutting it to the west (No. 7 on the exhibit, V-0187, 1980, vacated 15-ft of 9th Street ROW).

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 16, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described right-of-way and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the right-of-way described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Retain the east 20-ft of the ROW that the applicant proposes to vacate.
4. Retain as a utility easement.

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Retain the east 20-ft of the ROW that the applicant proposes to vacate.
4. Retain as a utility easement.

MOTION: That item 4-2 be approved.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

4-3. VAC2001-39 –Request to Vacate Utility Easement, located northwest of the southwest of the South 31st Street –Oliver intersection, 3801 S. Oliver.

CASE NUMBER: VAC2001-00039: Request to vacate utility easement.

APPLICANT/OWNER: The Boeing Company c/o Michael D Felix

The City of Wichita

AGENT: PEC, PA c/o Gary Wiley

LEGAL DESCRIPTION: The 20-ft utility easement described as follows: The east 20-ft of the south 894.74 feet of Lot 1, Turnpike Industrial 3rd Addition to Wichita, Kansas.

LOCATION: Generally located northwest of the southwest of the South 31st St – Oliver intersection, 3801 S Oliver.

REASON FOR REQUEST: Boeing proposes to construct private power lines at this location.

CURRENT ZONING: Subject property is zoned LI Limited Industrial. Properties to the north, east, south and the west are zoned LI Limited Industrial.

The applicant is requesting consideration to vacate the south 894.74-ft of a 20-ft utility easement on the east side of a part of Lot 1, the Turnpike Industrial 3rd Addition, recorded November 1988. The applicant is proposing the vacation to construct private power lines at this location.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 16, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described utility easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.

MOTION: That item 4-3 be approved.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

4-4. VAC2001-40 - Request to Vacate a Drainage Easement, located northeast of the Holland Street – Emerson intersection.

CASE NUMBER: VAC2001-00040: Request to vacate drainage easements.

APPLICANT/OWNER: Benchmark Holdings LLC c/o Phil Bundy

AGENT: Baughman Company PA c/o Phil Meyer

LEGAL DESCRIPTION: 90-ft drainage easement between Lots 5 & 6, Blk B, Ridge Plaza 8th Add, per dedication film 329, page 755.

LOCATION: Generally located northeast of the Holland Street – Emerson intersection.

REASON FOR REQUEST: To allow future development on this site.

CURRENT ZONING: Subject property is zoned LC Limited Commercial. Properties to the north, south, east and the west are zoned LC Limited Commercial.

The applicant is requesting consideration to vacate a 90-ft drainage easement between Lots 5 & 6, Block B, Ridge Plaza 8th Add. The drainage easement was recorded by separate instrument (film 329, page 755, recorded August 1978) and dedicated to the public. Ridge Plaza 8th Add was recorded April 1982.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 16, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the drainage easement described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.
 3. Financial guarantee to provide for the construction of underground drainage pipe to.
 4. Provide sufficient easement for underground drainage pipe.

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Financial guarantee to provide for the construction of underground drainage pipe to.
4. Provide sufficient easement for underground drainage pipe.

MOTION: That item 4-4 be approved. .

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (9-0)

5. **Case No.: ZON2001-00043** – Zone change from “LI” Limited Industrial to “OT-O” Old Town Overlay district

generally located one-quarter block north of 2nd Street, east of Mosley Street.

NORTH .73 FEET OF LOT 3, ALL OF LOTS 4, 5, 6, AND THE SOUTH HALF OF LOT 7, BLOCK B, H. L. AND ANNIE M. TAYLOR'S ADDITION TO WICHITA, SEDGWICK COUNTY KANSAS.

BACKGROUND: The applicant is seeking inclusion of his property in the "OT-O" Old Town Overlay District. The property is located ¼ block north of Second Street, east of Mosley. There is not a particular use(r) committed to the property at this time. The site is developed with a single story commercial building that, under its current configuration, is divided into three identifiable spaces containing approximately 24,920 square feet. The buildings are currently being remodeled.

As depicted on the site plan, the applicant's property is virtually developed property line to property line, so there is not any room for on-site parking, except within the buildings. It appears there might be excess right-of-way located along Mosley that, with a "minor street permit," could be used for parking. There is a parking lot located immediately south of the application area, but the lot is not under the applicant's control. The same is true with an unpaved tract of land located west of the application area that is used for loading during daytime hours. The lack of parking is the primary reason for the request for "OT-O" zoning. The Old Town Overlay District has reduced parking requirements when compared to most other zoning districts, and has provisions which allow for the use of off-site shared public parking spaces by property owners in the Old Town Parking District by paying a monthly fee, in lieu of providing the parking directly. However, inclusion within the "OT-O" zoning district does not automatically include the property within the Old Town Parking District. A separate ordinance will have to be prepared and approved to include the site in the Old Town Parking District. Until the property is included in the parking district, the applicant will need to provide parking as required by the appropriate sections of the code. Because of the limited availability of nearby land for parking, the applicant is asking that the Overlay District for this addition include a special provision that would allow short term leases for parking to be counted towards meeting his parking requirements.

If this request is approved, the underlying zoning on the property would remain "LI" Limited Industrial, but the property would become subject to the design, signage and parking requirements of the "OT-O" district. The "OT-O" district also permits a wider range of uses, such as residential, that are not permitted by the existing "LI" zoning.

Surrounding properties are zoned "LI" and are predominantly developed with commercial, industrial and warehouse uses. The property immediately south of the application area is developed with surface parking. A vacant lot exists west of the applicant's property. The land located to the north and east is developed. The closest "OT-O" zoning is located a ¼ block south, just across Second Street. Another request for "OT-O" has been submitted at Third and Mead and was approved by MAPC (8-9-01) and City Council has approved a plan for redevelopment of the area to the west for a theatre / retail restaurant complex.

CASE HISTORY: The property was platted around 1900.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Limited Industrial; warehouse / industrial
SOUTH:	"LI"	Limited Industrial; parking lot
EAST:	"LI"	Limited Industrial; commercial
WEST:	"LI"	Limited Industrial; vacant / warehouse / printing company

PUBLIC SERVICES: All normal public services are available. Moseley, a concrete street with railroad tracks, has 60 feet of street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" does not specifically address this area but refers to the "Development Plan for Downtown Wichita" (June 1989). Similarly, the Downtown Plan does not provide specific land use recommendations for the area, but identifies the area north of Douglas and east of the railroad tracks as the "Old Town/Rock Island Rehabilitation" challenge.

The Downtown Plan included a goal of mixed-use development, with the objective of introducing lodging, residential and/or recreational activities to areas that were underutilized during non-working hours.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request to create this addition to the "OT-O" District be APPROVED, incorporating the following special conditions that would apply only to this property:

1. Leased parking spaces that have not been obtained by a recorded agreement in accordance with Sections IV-A.9.c and IV-A.10.d of the Unified Zoning Code shall count towards meeting the off-street parking requirements, if the parking is paved, dimensioned, and marked in accordance with requirements of the zoning code and the City Engineer, and is made available to the general public.
2. Off-site parking spaces must be located in accordance with Section IV-A.10 of the Zoning Code in order to meet off-street parking requirements except that they may also be located in a parking lot that is east of Washington Street with frontage on that street (normally, parking areas located across an arterial street from the use may not be counted toward meeting minimum requirements).

We recognize that the additional flexibility regarding leased parking has the potential for creating abuses when leases lapse, and more administrative burdens for City Staff to monitor the leases. Also, if this flexibility is granted to this property owner, it should also be granted to other owners in the "OT-O" district in the future if requested.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property located adjacent to the site is zoned "LI" Limited Industrial and is developed with industrial type uses. There is a parking lot located south of the application area, but the lot is not under the applicant's ownership or control. A vacant unpaved lot is located west of the application area but it is not under the applicant's control. The area is an old warehouse district whose early 1900's era buildings are mostly occupied by fairly intense land uses, but because of the area's proximity to the Old Town redevelopment area, is likely to experience increasing pressure for conversion to entertainment or specialty shopping. "OT-O" zoning exists ¼ block to the south. "OT-O" zoning has been approved by the MAPC ½ block north and one block west.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used for many commercial uses as it is currently zoned, however the "LI" district requires parking to be provided, if the uses changes to ones that have greater parking requirements. The overlay district provides a mechanism for handling the parking more flexibly.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Depending upon the site's ultimate use, increased demand for parking could occur that would not be met immediately by the City through the Parking District. This could add congestion and conflicts for the existing uses in the vicinity that are operating on week days.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with core area redevelopment efforts supported by the *Development Plan for Downtown Wichita* in that this would represent an expansion of the Old Town/Rock Island Rehabilitation zone.
5. Impact of the proposed development on community facilities: Conversion to uses that increase in the demand for parking spaces would put more pressure on the City to purchase and improve more land for public parking, and the fees charged to property owners in the Parking District are not sufficient to pay the entire cost of providing public parking, which means the City would continue to subsidize parking in this area as it has south of Second Street. Also, it is reasonable to expect that the infrastructure of streets, drainage, lighting, etc. will be upgraded as it has been south of Second Street.

DALE MILLER, MAPD staff, presented the staff report and showed slides.

WELLS asked if there should be a master plan to deal with this kind of request rather than on a case-by-case basis.

MARVIN KROUT, Planning Director, stated that, due to the special parking requests, it is worthwhile to test this idea

on a limited basis to see if it works.

BISHOP asked for a clarification that a long-term lease would not be required for parking.

MILLER indicated that is correct.

MARNELL asked if this was similar to a case approved previously.

MILLER stated that it was.

GREG FERRIS, agent, indicated the applicant agrees with staff recommendation and that the request is a positive one which will lead to redevelopment and that the applicant will provide required parking.

DAVE BURK, Old Town developer, spoke in opposition to the request and indicated that it is not part of an overall plan and is spot zoning. He felt that the entire area between 2nd & 3rd streets, east of Washington should be made part of a master plan.

FERRIS stated that these cases are best processed on a case by case since the landowner determines that their business is viable and it is not spot zoning.

SHELDON KAMEN, applicant, indicated that the property is located within the tax increment district and is paying for improvements in Old Town. He further indicated that this request is similar to other spot zoning requests that have been approved for theaters, apartments, and restaurants. He also stated that the building has historical significance and unique architectural features and it will be renovated, but it needs assistance with addressing parking needs through the request.

MOTION: To approve per staff recommendations.

BARFIELD moved, **ANDERSON** seconded the motion, and it carried unanimously (8-0-1) Wells abstained.

6. **Case No.: CON2001-00043** – Conditional Use permit for a wireless communication facility generally located south of 77th Street North and east of 215th Street West.

COMMENCING AT THE NORTHWEST CORNER OF LOT 4 OF SAID SECTION 6; THENCE SOUTH 02 DEGREES 16' 22" EAST ALONG THE WEST LINE OF LOT 4, A DISTANCE OF 1,060.50 FEET; THENCE NORTH 87 DEGREES 43' 38" EAST, A DISTANCE OF 225.11 FEET TO THE POINT OF BEGINNING OF SAID 100 FOOT BY 100 FOOT LEASE AREA; THENCE CONTINUING NORTH 87 DEGREES 43'38" EAST, A DISTANCE OF 100 FEET; THENCE SOUTH 02 DEGREES 16' 22" EAST, A DISTANCE OF 100 FEET; THENCE SOUTH 87 DEGREES 43'38" WEST, A DISTANCE OF 100 FEET; THENCE NORTH 02 DEGREES 16' 22" WEST A DISTANCE OF 50.00 FEET TO A POINT HEREFTER REFERRED TO AS POINT "A"; THENCE CONTINUING NORTH 02 DEGREES 16' 22" WEST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING. CONTAINING 10,000 SQUARE FEET, MORE OR LESS.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 250-foot high self-support lattice tower (see attached "Elevation View") by American Tower Corporation. American Tower Corporation indicates that the tower is being constructed, at least initially, for Verizon Wireless. The proposed site is zoned "RR" Rural Residential. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest residences not owned by the applicant are located approximately 1,100 feet to the northwest and 1,250 feet to the southwest. Neither residence is oriented such that it directly faces the proposed tower, and existing trees at each residential site will partially obscure the tower from

view.

The proposed tower would be sited on a 10,000 square foot area located south of 77th Street North and east of 215th Street West within a 292 acre corn field and agricultural home site. Access to the site is proposed to be via a 20-foot wide access and utility easement to 215th Street West. The applicant's site plan (see attached "Enlarged Site Plan") depicts a 100-foot by 100-foot lease area with a 75-foot by 75-foot fenced compound with the tower located in the center of the compound. The site plan does not indicate the specific location of ground-level equipment within the compound.

The compound is shown to be enclosed by six-foot high chain link fencing with three strands of barded wire on top. Landscaping in the form of 6-foot high junipers planted every 15 feet is shown along the north, south, and west sides of the compound.

The application indicates that the proposed wireless communication facility is needed for Verizon Wireless to improve the coverage of its wireless phone system along the K-96 highway corridor and in Andale and Colwich (see attached letter dated July 30, 2001 and "Existing" and "Proposed" propagation plots). Verizon Wireless indicates that it needs to mount its antennas at a height of 160 feet; however, American Tower has requested to construct a 250-foot high tower, which is contrary to the Unified Zoning Code's requirement to remove unused portions of towers.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site will have access to 215th Street West, an unpaved section line road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that two elements of the request do not conform to the guidelines of the Wireless Communication Master Plan. First, the request does not minimize the height, mass, and proportion of the facility since a 250-foot high tower is requested when only a 160-foot high tower is needed. Second, the request does not minimize the silhouette of the facility since a self-support lattice tower is requested rather than a monopole. Therefore, planning staff is recommending conditions of approval that bring the request into conformance with the guidelines of the Wireless Communication Master Plan. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 160 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of at least 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The proposed wireless communication facility is consistent with the agricultural character and uses of the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is used as farm land. Wireless communication facilities in excess of 65 feet in height in the "RR" Rural Residential zoning district may be permitted as a Conditional Use, which should be subject to conditions of approval that maintain conformance with the Location/Design Guidelines of the Wireless Communication Master Plan.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nearest residences not owned by the applicant are located approximately 1,100 feet to the northwest and 1,250 feet to the southwest. Neither residence is oriented such that it directly faces the proposed tower, and existing trees at each residential site will partially obscure the tower from view. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the recommended conditions of approval should reduce the visual impact of the tower in two ways. First, reducing the height of the tower to 160 feet will bring the tower below the FAA's 200-foot threshold where aircraft warning lighting and painting the tower red and white are required. Second, requiring a monopole will minimize silhouette of the tower, thus making the tower less visually intrusive.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. With the recommended conditions of approval, the proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan. The recommended height of 160 feet rather than the requested 250 feet minimizes the height, mass, proportion of the facility and allows the facility to utilize an unobtrusive color with a matte finish to minimize glare rather than a red and white paint scheme with aircraft warning lighting. The recommended monopole rather than the requested self-support lattice tower minimizes the silhouette of the facility. The facility is proposed to be placed in an area where trees obscure some of the facility from view from nearby properties. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code

since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

SCOTT KNEBEL, MAPD staff, presented the staff report and showed slides indicating that in general, a monopole tower up to 160 feet in height with the potential to increase height by 25 % was recommended.

RON JONES, agent for American Tower, a co-location tower construction company. The applicant stated his company saw increased customer demand in this area. They would like to build higher than staff's recommendation, but they could live with staff's recommendation. If the first user has difficulty at the recommended height, they might need to go higher but the carrier won't know until the antenna is in operation.

BARFIELD noted that the recommendation is to allow the tower to go to 199 feet. Jones stated he did not want to confuse anyone that they would only go to 160 feet. Barfield asked why the applicant proposed a lattice tower.

JONES indicated a lattice tower allowed for more height.

MARNELL asked if the applicant wanted a 250-foot tower or not? Jones said they would like the higher height, but it was not worth fighting over.

MARNELL noted it was rural area and a higher tower might be appropriate. Warren asked about FAA lighting/painting requirements and indicated he thought a taller tower might be O.K.

MARNELL stated that he saw this area as a "no harm, no foul" area with respect to tower height.

KROUT reminded them that that position was contrary to the adopted plan and they may want to wait for the upcoming wireless master plan review.

MARNELL stated he did not agree. He felt the application area was not in not an urban area and he saw no harm to an increase in height.

BARFIELD asked if the tower were built at a higher height, would Verizon occupy the height above 200 feet?

JONES indicated they would not.

MOTION: ANDERSON moved, **BISHOP** seconded, to approve the request subject to staff recommendation.

MOTION: HENTZEN moved, **WARREN** seconded a substitute motion to authorize a 200 foot tower and eliminate item "e".

HENTZEN stated that there are several lattice towers in the general area.

ANDERSON asked about the adopted policy regarding towers.

KNEBEL indicated plan guidelines call for the silhouette of the tower to be minimized, and monopoles are to be encouraged.

BISHOP asked if the motion was to approve subject to staff recommendations but at 200 feet?

HENTZEN answered yes.

MARNELL indicated he thought staff's recommendation was inconsistent with previous cases where we approved a lattice tower in an urban area.

WARREN stated that height was the more important issue rather than the type of tower. Bishop asked what impact would the 200-foot height limit have?

JONES stated the practical maximum height of a monopole is 200 feet due to cost.

HENTZEN asked if staff would allow a lattice tower.

KNEBEL stated that staff recommended a 160-foot tall tower, which is 10 feet higher than the height needed by the user the applicant has identified, which results in the recommendation for a monopole, per the Wireless Master Plan.

ANDERSON asked why they were arguing if the recommendation is consistent with plan. Warren objected to a requirement to use a monopole.

MOTION: To approve the substitute motion

ANDERSON moved, **BISHOP** seconded the motion, to approve per staff recommendations carried (8-1) **ANDERSON** opposed.

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7. **Case No.: CON 2001-00048** – Conditional Use to allow a Group Residence, Limited generally located north of east 2nd Street between Hillside and Rutan (3242 East Second).

THE WEST 20.2 FEET OF LOTS 12 AND 13 AND ALL OF LOT 14, IN CHATFIELD ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

BACKGROUND: The applicant is requesting a Conditional Use to allow a Group Residence, Limited, on a .13-acre platted lot located along the north side of East 2nd Street, between Rutan and Hillside. The property is currently zoned "TF-3" Two-Family Residential, and is developed with a single-family residence. The owner currently rents the property to the agent in this case. The agent/tenant wishes to use the existing residential structure as a Residential Group Boarding Facility for children ages 12 to 17, including pregnant teenagers. The Wichita-Sedgwick County Department of Community Health – Office of Child Care Licensure states that the application area can accommodate nine residents. The agent/tenant intends to have a certified house parent supervise the foster home facility.

The application area is located on the west side of the College Hill neighborhood, less than one block east of Hillside. The application area and the immediately surrounding residential properties are zoned "TF-3;" however, "GO" General Office zoning exists less than 150 feet from the application area. Property southwest of the application area was rezoned from residential to office, and the formerly residential area south of 2nd Street between Hillside and Holyoke is now completely redeveloped with medical offices.

Because the application area is within the environs (a 500 foot radius) of the Senator Long House, a registered historic property located at 3403 East Second, the Historic Preservation Board heard the Conditional Use request at its regularly scheduled meeting on August 13, 2001. The Historic Preservation Board voted 6-0 to recommend denial of the Conditional Use request to the MAPC. The Historic Preservation Board's discussion focused on the change in use and therefore the change in character of the single-family residential environs. The applicant's agent spoke in support of the Conditional Use request, stating a desire for a safe, pleasant neighborhood for foster children.

Several neighbors, including officers of the College Hill Neighborhood Association, spoke against the Conditional Use request at the Historic Preservation Board hearing. The neighborhood opposition was based on a change in single-family use and therefore a change in single-family neighborhood character, and further encroachment of atypical residential uses into the College Hill neighborhood, especially at this location near other non-residential encroachment. The Neighborhood Association also stated that they currently are working to place a Protective Overlay on the College Hill residential neighborhood. This proposed overlay would restrict non-residential uses, and downzone some or all "TF-3" zoned property to "SF-5." The Neighborhood Association therefore asked that no changes in use be permitted in College Hill until the Association has the opportunity to complete their protective overlay process.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"	single-family residences
SOUTH:	"TF-3," "GO"	single-family residences, office
EAST:	"TF-3"	single-family residences
WEST:	"SF-5," "GO"	single-family residences, office

PUBLIC SERVICES: The property is located along East 2nd Street, a one way, two-lane street. The traffic count as of March 2001 was 4,618 cars per day (ADTs) on this section of East 2nd Street. The projected traffic volume for 2030 is 4,612 cars per day. No street projects are included in the C.I.P. The property has one drive entrance onto East 2nd Street.

The property is served with sanitary sewer and municipal water.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as "medium density residential," reflecting the zoning pattern. The new draft revisions to the Guide propose "low density residential" to better reflect the predominant existing land use pattern.

The "Wichita Residential Area Enhancement Strategy" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area, and the surrounding area along Hillside, as a Revitalization Area. Classification criteria for the Revitalization Area includes "Residential neighborhoods that are experiencing structural and market decline, but market and development opportunities still exist ... Neighborhoods that need to be stabilized (correction of housing deterioration), rehabilitated and made more attractive for private investment ... Areas that need improvement of community services and infrastructure ..." A set of Enhancement Strategies is then prescribed by the Comprehensive Plan to promote stability and renovation in the area.

The Wichita and Sedgwick County Unified Zoning Code lists Group Residence, Limited as a residential use, and as a Conditional Use in the "TF-3" and "SF-5" zones. The Zoning Code does not list specific conditions for Group Residence, Limited. Group Residence is defined in the Zoning Code as:

"...a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect. The term 'group residence' does not include 'group homes' or 'correctional placement residences.'"

Group Residence, Limited is defined in the Zoning Code as "...a group residence that is occupied by six to fifteen persons, including staff members who reside in the facility." The Zoning Code defines five or fewer unrelated persons, living together, as a family, and would not require a Conditional Use.

RECOMMENDATION: Single-family residential uses border this site in all directions. This west side of the College Hill residential neighborhood, near Hillside, has been encroached upon by non-residential uses in the past. Approval of a Group Residence, Limited Conditional Use is likely to encourage more applications in the neighborhood for a wide range of other uses. The stability of the western edge of the College Hill neighborhood is under intense pressure. Over the years, land use along Hillside has changed from residential uses to office and commercial uses. These non-residential uses have lessened the desirability of the remaining homes for single-family occupancy. With the pending redevelopment of the southeast corner of Hillside and Central, the expansion of the medical facility at Hillside and 2nd, and the sale of the State Office Building to private interests, there is a real need for the western edge of single-family residential uses in College Hill to be stabilized and well defined. Otherwise, the stability of single-family residential uses along the western edge of College Hill will remain in question and further erode the desirability of residential uses in this area.

The requested Conditional Use, Group Residence, Limited, is in this application referred to as a Residential Group Boarding Facility by the State and County Health Departments, and by Social Rehabilitative Services. Both of these

organizations at the state and local level confirm that the proposed facility would require visitations by medical, educational, and other professionals. These visitations, combined with the need for caretaker staff, a transportation means for the residents of the facility, and visitation by family and friends, would exceed the parking capacity of this lot. The existing garage and graveled parking area is adequate for a typical family, but the proposed use will generate more traffic and parked cars, and these cars will need to back out onto 2nd Street to leave. Minimum staffing requirements for the proposed facility would be one per seven children during the day, and one per ten children at night. The applicant/agent in this case also indicates a desire to house pregnant teens in this facility, making it a Maternity Care facility as well; state and local professionals indicate that providing Maternity Care intensifies the need for medical and other visits. The proposed Conditional Use would be of a significantly greater intensity than that of the present uses in the immediate area.

State and local Health Departments and Social Rehabilitative Services representatives also indicate that foster parent homes and existing non-profit facilities appear to be meeting the current demand for Maternity Care facilities. Likewise, professionals at the state and local level agree that the preferred method of housing foster children, and pregnant foster children, is within a family foster home, rather than a Residential Group Boarding Facility.

For these reasons and based on information available prior to the public hearings, Staff recommends that the Conditional Use request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the application area is zoned "TF-3", but developed and used as single-family. The application area is part of a larger area that is single-family residential in character. The requested Conditional Use is a greater intensity use, and would alter that character.

2. The suitability of the subject property for the uses to which it has been restricted: The application area could continue to be used for a single-family residence; there is no indication that the application area has had difficulty in renting or otherwise being used as a single family residence.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: To allow the requested Conditional Use at this location in the College Hill neighborhood would establish a more intensive use of the property for the immediate neighbors, and would encourage further requests that would destabilize this western portion of the College Hill neighborhood.

4. Length of time property has remained vacant as zoned: It is staff's understanding that this property has been continuously occupied for single-family use prior to this tenancy.

5. Relative gain to Public welfare as compared to hardship imposed on the applicant: There does not appear to be a pressing demand for these services in the community that is not being met. The applicant could locate in a more suitable location, and the owner should be able to lease or sell the property as currently zoned.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Because this request and others it would invite will have a destabilizing effect on a fragile part of the neighborhood, this request is not consistent with adopted goals in the Comprehensive Plan.

7. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will conflict with through traffic on 2nd Street.

8. Neighborhood opposition: The College Hill Neighborhood Association indicated its opposition to this request at the Historic Preservation Board meeting on August 13, 2001.

However, if the MAPC is favorably disposed toward this request, staff recommends that it be subject to a time limit of 3 years, limit of 8 occupants, including a caretaker, after which the applicant would need to file for renewal.

JEFF MCNEELY, MAPD staff, presented the staff report and reviewed slides.

BARFIELD asked if on-street parking was allowed on Second Street. McNeely indicated it was not allowed at this location. The applicant was not in attendance.

BETH KING, representing the College Hill Neighborhood Association, indicated that College Hill residents are working on plans for the neighborhood and she felt that the western edge of College Hill needed protection. She noted the neighborhood was working with the developer on the re-development proposal at Hillside and Central. The neighborhood was also looking at down zoning residential property that is over zoned. She felt that this case threatens the stability of single-family uses present in the area. She felt the application site could continue to be used as a single-family home. She asked to board to deny the request.

HENTZEN asked where the use should be located. King responded that this case is different in that the applicant would not occupy the structure and that realtors have indicated the home could be sold for single-family use. Alvin Gregg, neighbor, living within a block of the application area stated he had lived there for 30 years and has been involved in efforts to preserve the area. He approved of housing for unwed mothers and the commission may want develop guidelines for that use. However, this is not the correct location and agreed with Ms. King's remarks and the staff report.

MOTION: To deny based on staff report.

ANDERSON moved, **BISHOP** seconded the motion, and it carried unanimously (9-0).

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8. **Case No.: ZON2001-50** – Zone change from “B” Multi-Family to “NO” Neighborhood Office generally located North of Central, between Terrace and Pershing.

LOTS 663 AND 664, OVERLOOK ADDITION TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS.

BACKGROUND: The applicant requests a zone change from “B” Multi-Family to “NO” Neighborhood Office on a 0.17 acre platted tract located north of Central, between Terrace and Pershing. The site is currently developed with a vacant office building that formerly housed a dental practice. The site's current “B” Multi-Family zoning permits offices for medical services but does not permit offices for other professions. The applicant has requested to rezone the property to “NO” Neighborhood Office to permit offices for other professionals such as accountants, architects, attorneys, etc. in addition to the currently permitted medical offices.

The surrounding area is characterized by a mixture of uses with commercial uses to the south and east and residential uses to the north and west. The properties north of the site are zoned “TF-3” Two-Family Residential and are developed with single-family residences. The property west of the site is zoned “TF-3” Two-Family Residential and is developed with duplexes. The property east of the site is zoned “B” Multi-Family and is developed with a medical office. The property south of the site across Central is zoned “LC” Limited Commercial and is developed with a service station.

CASE HISTORY: The site is platted as part of the Overlook Addition, which was recorded April 2, 1914.

ADJACENT ZONING AND LAND USE:

NORTH:	“TF-3” Single-family	
SOUTH:	“LC”	Service station
EAST:	“B”	Medical office
WEST:	“TF-3”	Duplex

PUBLIC SERVICES: The site has access to Central via a shared drive with the medical office to the east. Central is a four-lane arterial street with a March 2001 traffic volume of approximately 20,000 vehicles per day. The 2030 Transportation Plan estimates that the traffic volume on Central will increase to approximately 28,000 vehicles per day. Planning staff recommends that the current shared access drive to the site be formalized through a dedication of

access control and cross lot access to limit the impact of traffic and turning movements from the site on the capacity of the arterial street. Public water and sewer currently serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Office Locational Guidelines in the Comprehensive Plan indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The proposed office uses would serve as such a transitional use between the residential uses located north and west of the subject property and the commercial uses located south and east of the subject property.

RECOMMENDATION: Based upon several factors, planning staff finds the subject property appropriate for neighborhood office uses. First, the subject property is currently zoned "B" Multi-Family (which permits medical offices) and has been used as an office for over 40 years without noticeable detrimental impacts upon surrounding properties. Second, the "NO" Neighborhood Office district does not permit multi-family uses by-right (the "B" district permits multi-family uses up to 75 units per acre), and the proposed neighborhood office uses likely will have less impact on the surrounding properties than redeveloping the site with multi-family uses. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to the dedication of access control along Central except for the east 15 feet of Lot 663, Overlook Addition and the dedication of cross lot access to Lots 661 and 662, Overlook Addition.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized by a mixture of uses with commercial uses to the south and east and residential uses to the north and west. The properties north of the site are zoned "TF-3" Two-Family Residential and are developed with single-family residences. The property west of the site is zoned "TF-3" Two-Family Residential and is developed with duplexes. The property east of the site is zoned "B" Multi-Family and is developed with a medical office. The property south of the site across Central is zoned "LC" Limited Commercial and is developed with a service station. The proposed use of the site for offices for multiple professions rather than just as medical offices is consistent with the zoning, uses, and character of the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned "B" Multi-Family, which permits offices for medical services. The site could be used for offices for strictly medical services; however, the proposed office use for multiple professions should have the same impact as an office for medical services only.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The "NO" Neighborhood Office district will reduce the potential detrimental affects that could result from the property being redeveloped with high-density residential uses under the current "B" Multi-Family zoning.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** Although the Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development, the Office Locational Guidelines in the Comprehensive Plan indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The proposed office use would serve as such a transitional use between the residential uses located north and west of the subject property and the commercial uses located south and east of the subject property.
5. **Impact of the proposed development on community facilities:** Community facilities should not be adversely impacted, especially with the dedication of access control along the Central frontage and cross lot access to the medical office to the east.

SCOTT KNEBEL, staff, presented the staff report and reviewed slides. He indicated cross lot access should be applied both to the east and west.

The applicant was not present.

MOTION: To approve subject to staff comments.

HENTZEN moved, **BARFIELD** seconded the motion, and it carried unanimously (9-0).

9. **Case No.: CON2001-00047** - Conditional use to permit a Day Reporting Center generally located approximately 190 feet north of 33rd Street North and east of north Ohio Avenue.

A TRACT OF LAND GENERALLY DESCRIBED AS: LOT 1, EXCEPT THE SOUTH 170 FEET OF THE WEST 313.87 FEET AND EXCEPT THE NORTH 730 FEET, BLOCK 3, BRIDGEPORT 3RD INDUSTRIAL ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

BACKGROUND: The applicant is seeking a Conditional Use to permit a “day reporting center” (DRC). “Day reporting centers” are defined by the Unified Zoning Code as “a facility that provides non-residential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for or more days per week six or more hours per day.” The applicant indicates that clients who are to report to this facility will be provided supervision, counseling and life-skill training in a highly structured and supervised setting. The application area is located approximately 350 feet north of 33rd Street North, immediately east of north Ohio Avenue. The site is five acres in size and is zoned “GI” General Industrial. A 9,940 square foot building is to be placed in the western third of the application area. Fifty-one parking spaces are to be provided adjacent to Ohio Avenue. The applicant is seeking a Conditional Use to permit a “day reporting center (DRC).” “Day reporting centers” are defined by the *Unified Zoning Code* as “a facility that provides non-residential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for three or more days per week for. The DRC is designed to process 120 clients. The site plan indicates the potential for an additional 7,200 square foot building some time in the future.

The need for this facility is a result of the approval of 2000 Senate Bill 323 that requires Topeka, Kansas City, Kansas, and Wichita to provide community supervision services in lieu of the state building additional prison beds. These services are funded 90% by a federal grant. Community Solutions, Inc. has a five-year contract, renewable annually, to provide these required services in Wichita. Community Solutions, Inc. has previously attempted to locate this facility in the Twin Lakes Shopping Center. Twin Lakes is a traditional urban shopping center located at the intersection of two arterials with residential uses located nearby. That application was withdrawn due to community opposition. The applicant then evaluated at least 50 sites in an attempt to find one that would be acceptable to a larger segment of the community and meets site location standards. (Some of the location standards are listed below.) If the City actively works with the Secretary of Corrections to identify a suitable location, the Secretary is required to consider the views of the City and local residents before making the final site selection. Otherwise, the Secretary potentially has the authority to pick a location and order a “day reporting center” in without regard to local zoning (2001 Senate Bill 57, sec. 148). The Department of Corrections is attempting to work with the community to find an acceptable location.

The application area is part of a much larger area that is zoned “GI” General Industrial. Uses located near the site include: warehousing, trucking / shipping, concrete cutting, Interstate 135 and a municipal utility. There are also undeveloped tracts located nearby. In comparison to other sites evaluated, this location is not located near residences, schools, taverns, correctional placement facilities / day reporting centers, group homes or businesses which attract children.

The “GI” zoning district permits the most intensive land uses, and is the least restrictive zoning district, in the city's zoning code. “Day Reporting Centers” require a Conditional Use in either the “LI” Limited Industrial or “GI” General Industrial districts. “DRC’s” are not permitted in any other zoning districts. The use is listed in the zoning code under the general land use heading of “Public and Civic.” Day reporting centers must also be in compliance with all federal, state and local regulatory requirements and if such facilities are not operated directly by a unit of government, they shall meet licensure requirements that further specify minimum service standards. Local licensing standards include a requirement to be located 1,200 feet from parks, schools, day care centers/facilities, businesses that cater to children, offices or group homes for the mentally disabled, residential districts, correctional placement facilities or day reporting centers.

CASE HISTORY: The application area is part of Lot 1, Block 3, Bridgeport Third Industrial Addition platted in 1979.

ADJACENT ZONING AND LAND USE:

NORTH: "GI" General Industrial; trucking / warehouse
SOUTH: "GI" General Industrial; offices / equipment parking-maintenance for a concrete cutting concern;
municipal utility station
EAST: "GI" General Industrial; I-135
WEST: "GI" General Industrial; Oil company trucking / warehouse

PUBLIC SERVICES: Municipal water and sewer services are available. Ohio is built to an industrial street standard.

CONFORMANCE TO PLANS/POLICIES: This area is known as the Bridgeport Activity Area and is part of General Urban Renewal Plan adopted in 1972. The *Urban Renewal General Land Use Plan* depicts this site as appropriate for "heavy manufacturing." *Urban Renewal Plan* language addressing this site is contained in the more specific *North Industrial Park Plan* which states that "[l]and use shall be as indicated on the Land Use Plan Map. The land use shall be exclusively industrial, which shall include heavy and light industry, commercial and warehousing development. Residential uses are specifically excluded from the Project Area. Necessary public supporting uses shall be permitted." The *Wichita Land Use Guide* depicts this site as appropriate for "industrial" uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Development and maintenance of the site shall be in conformance with the approved site plan.
2. All applicable federal, state and local permits shall be obtained prior to commencing operations.
3. This Conditional Use permit shall be rendered null and void if the site is not operated or maintained in conformance with adopted conditions of approval.
4. This Conditional Use permit shall be rendered null and void if operations have not begun within one year of approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property surrounding the application area is known as the Bridgeport Industrial area. In character, this area is industrial. All of the land in this vicinity is zoned "GI" General Industrial and is used for warehousing, trucking, sewer system installation or similar industrial activity. The application area abuts Interstate 135. Streets are built to industrial street standards. There are some vacant tracts in the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "GI" General Industrial which permits a wide variety of uses. The site is suitable for uses that are permitted "by-right" and could be so developed. However, since the Unified Zoning Code only permits DRC's in the "LI" or "GI" districts with a Conditional Use permit, most "LI" or "GI" zoned properties are potentially suitable for this type of request.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: All properties in the immediate area are zoned "GI" General Industrial. This district permits the most intensive uses, and is the least restrictive zoning district, found in the code. Existing land uses and those potential uses allowed "by-right" on property located near the application area have the potential to generate greater detrimental impacts with respect to noise, odor, vibration, smoke, heavy truck traffic and extended hours of operation than the requested use. The application is for a use that is essentially an office that is frequented by individuals needing community supervision, and therefore not easily located in most traditional office or commercial settings. The clients are highly supervised and the services provided are highly structured. When the requested use is compared to existing and permitted uses there should be few if any detrimental affects on nearby properties.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: With the passage of 2000 Senate Bill 323 DRC's have become a public necessity. Under current state law, these facilities have to be placed somewhere in the community. If this request is denied, the public will lose in terms of: failure to comply with state law, the potential to lose control over the process if the Secretary of Corrections selects a site and in efficiency and effectiveness of providing local citizens with these required services. Presumably, Community Services, Inc. provides a needed public service that is not being met otherwise. The applicant has previously attempted to locate this facility in a commercial setting and failed due to community opposition. At least 50 possible locations have been evaluated since the initial site was abandoned. This location has now been selected as meeting minimum standards. Community Services, Inc. will experience a significant financial hardship if this request is not successful in that it has a contract with the State to provide these state mandated services by April 2001. That date has already passed and they have already spent a significant amount of money in abandoning the original site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Unified Zoning Code* considers Day Reporting Centers to be a "public and institutional" use. The current zoning code highly restricts the number of properties that can be considered for this use since it takes a Conditional Use in either "LI" or "GI" zoning. Potential sites are further limited by local licensing requirements which require these facilities to be located 1200 feet from parks, schools, day care centers/facilities, businesses that cater to children, offices or group homes for the mentally disabled, residential districts, correctional placement facilities or day reporting centers. The Bridgeport Industrial area generally meets these location criteria. The Bridgeport Activity Area is part of General Urban Renewal Plan adopted in 1972. The *Urban Renewal General Land Use Plan* depicts this site as appropriate for "heavy manufacturing." *Urban Renewal Plan* language addressing this site is contained in the more specific *North Industrial Park Plan* which states that "[l]and use shall be as indicated on the Land Use Plan Map. The land use shall be exclusively industrial, which shall include heavy and light industry, commercial and warehousing development. Residential uses are specifically excluded from the Project Area. Necessary public supporting uses shall be permitted."

The proposed use is a "necessary public supporting use." In this case, this use is only permitted in the "LI" or "GI" districts with a Conditional Use permit much like transfer stations, wrecking/salvage yard or asphalt/concrete plants; day reporting centers are classified by the Unified Zoning Code as a "public and institutional use;" the City and the State have licensing requirements that require separation from other similar uses, uses that cater to children, schools, etc. There are very few locations outside of the Bridgeport area that meet these location criteria. Finally, it is conceivable that clients of this facility could provide a convenient labor supply for nearby industrial uses. This proposal is consistent with adopted plans and policies.

6. Impact of the proposed development on community facilities: All necessary community facilities are in-place or can be conveniently extended. Traffic to this use could be somewhat higher than a typical heavy industrial area. However, Ohio is built to an industrial street standard and provides direct access to 29th Street that provides easy access to I-135 and other key community transportation routes.

MICHAELIS: Item #9. Mr. Wells, has informed me that he needs to step down from this item, so I thank him for doing that.

BARFIELD: Can I ask a question before we begin?

MICHAELIS: Yes, Mr. Barfield.

BARFIELD: Marvin, this issue has been approved by City Council has it not?

KROUT: The answer is that the City Council has given their consent for the filing of this application. They have not taken an action on the Conditional Use that is in front of you today. They had indicated by their previous action that this is the site that they want to be reviewed for a possible Conditional Use permit. I would say that the City Council has not taken any final action with regard to the zoning. If the case were ever to get to them, let's say by protest by the nearby

property owner, they are to look at the facts -- on this case on -- this issue just like they would for any other issue, and weigh the information. Even though they have identified this as what they think is the most suitable site now, they may change their minds as a result of what happens at this hearing.

BARFIELD: If we were to approve this or if we deny this, would it still go back to the City Council?

KROUT: If you were to approve this case and one of the nearby property owners submitted a protest petition within 14 days, then the case would be appealed on to the City Council, and they would have the final decision. If you were to approve the case and they felt they wanted to hear it, but there were no protests, but they felt they wanted to consider it themselves, they have the authority through the Zoning Code to have it brought to the City Council and appealed for their consideration. If it were denied by the Planning Commission, City Council again would have the right to say "we would like to have this considered by the City Council" and have it appealed to the Council for final determination. They have that option whether it is approved or not.

MICHAELIS: The bottom line is that we need to hear the case without prejudice.

KROUT: Right.

DALE MILLER, MAPD Staff. This is a request for a Conditional Use permit to allow a Day Reporting Center to be located on the application area, which is located just east of Ohio and north of 33rd Street. This is I-135 here. A Day Reporting Center is defined in the Unified Zoning Code as, "A facility that provides non-residential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for three or more days per week for six or more hours per day". The applicant has indicated to us that they will be providing supervision, counseling and life-skill trainings and that is provided in a highly skilled and supervised setting.

The need for this facility, basically, is generated out of a State Statute that requires Topeka, Kansas City, Kansas, and Wichita to provide community supervision services in lieu of the state building additional prison beds. Community Solutions, Inc., has a five-year contract, which is renewable annually, to provide these services. The City has been working with them to locate a site, as you are probably aware. They attempted to locate this same type of facility in the Twin Lakes area, and as a result of opposition they withdrew that application and then worked with the City more to find a site that might be suitable. Over 50 sites have been evaluated in the course of that review, and based on the review this particular site appears to be the one that is the most logical.

The site is zoned "GI" General Industrial, and the Unified Zoning Code "Day Reporting Centers" require a Conditional Use in either the "LI" Limited Industrial or "GI" General Industrial districts. They are not permitted in any other zoning districts and they are not permitted by right in any zoning district. It is difficult to find a site that is suitable for this particular type of use. Then on top of the zoning requirements for this particular land use, there are licensing requirements that have to be met. Among which is that they are to be located 1,200 feet from parks, schools, day care centers/facilities, businesses that cater to children, offices or group homes for the mentally disabled, residential districts, correctional placement facilities or other day reporting centers.

This area, as you can see, from the aerial there is warehousing and trucking. HOC, which was formally known as Home Oil Company has a facility here. This is Kansas Concrete Cutting. This facility is part of the wastewater treatment system operated by the City of Wichita. The rest of the area is vacant.

It is part of the Bridgeport activity area that is governed by the General Urban Renewal Plan that was adopted in 1972. That plan said that this site was appropriate for "heavy manufacturing" uses and went on to describe that use as being "The land use shall be exclusively industrial, which shall include heavy and light industry, commercial and warehousing development. Residential uses are specifically excluded from the Project Area. Necessary public supporting uses shall be permitted." I want to emphasize "necessary public supporting uses shall be permitted" because that is what we are suggesting that makes this site appropriate within that recommended plan in that this is a public use.

The fact that the State has dictated that the City of Wichita will have a facility of this kind somewhere it makes it necessary, and as I indicated before, they have reviewed at least 50 different sites in trying to find a location that would be suitable. Staff is recommending approval based on the conditions found in the staff report, items 1-4:

1. Development and maintenance of the site shall be in conformance with the approved site plan.

2. All applicable federal, state and local permits shall be obtained prior to commencing operations.
3. This Conditional Use permit shall be rendered null and void if the site is not operated or maintained in conformance with adopted conditions of approval.
4. This Conditional Use permit shall be rendered null and void if operations have not begun within one year of approval.

This is the site plan that they have submitted. They are showing that initially there would be a building placed here in that location. Parking along the east side of Ohio, and then they are showing in the future, should there be a need for expansion, there could be potentially a second building located on the northern edge of the property. Again, this is the Kansas Concrete cutting and then the warehousing and trucking facilities a little further north and west.

(Referring to a specific slide) Because I wasn't sure how clear that slide was going to come off, so basically, it is just an outline of that site plan showing the parking and potential buildings. This is the application area. I am standing at Ohio looking east. This is to the north, the trucking and warehousing. Another shot of the property immediately north. Looking east across the backside of the application area towards I-135. Looking south, that is the Sewer Department's deodorizing facility for the main sewer line. That is looking south, what would be the north side of Kansas Concrete Cutting. I basically got in the middle of the site and just shot in all directions. That is looking west back over towards HOC's facilities on the south end of their developed area. That is to the northwest at the HOC property. Back to the site plan, the aerial. I would be happy to answer any questions.

BARFIELD: Can you show me where that park, where is that located?

MILLER: It is not on any of these maps. It is far enough removed that it is not on this location. You mean the soccer field?

BARFIELD: Yes.

HENTZEN: Dale, what is that, 35th or 37th Street?

MILLER: This is 35th and this is 33rd Street.

BARFIELD: Dale, I believe when we first discussed this there was a lady here I believe from Topeka I am not sure, she mentioned the fact that these reporting centers have been located in some other cities, do you recall if there were any that were located in areas such as this?

MILLER: I remember her being here and someone asking that question, but I don't remember what her response was.

KURT SCHROEDER, OFFICE OF CENTRAL INSPECTION: The soccer field that I think Dale is pointing to, I think it had been briefly located up here and now it is kind of right down in this area.

MILLER: Okay, further north then.

WARREN: Just to confirm Dale, this land now is currently is titled to the City of Wichita, including that sewer treatment facility, and it is intended to remain in their name?

MILLER: That was my understanding that it is owned by the City of Wichita, the property today. Now, I don't whether it is a lease or a sale or what. Joe Lang from the City Law Department may be able to answer the actual arrangements better than I.

JOE LANG: It would be a lease.

MILLER: It would be a lease, he indicates.

LANG: The City owns the property.

MARNELL: Are those soccer fields still active?

MILLER: Someone in the audience says, "Yes".

MARNELL: Wouldn't that violate this rule about something that caters to childrens' businesses? Those were strict guidelines and they seem pretty strong to begin with.

MILLER: I have been advised from the audience that it is an adult soccer field.

MICHAELIS: Any further questions to staff?

BISHOP: The building itself, is that still planning to be built by the City?

MILLER: I do not know who is paying for it. It is my understanding that it is to be a modular building that can be moved in, it would not be site built, is my understanding.

MICHAELIS: Thank you, Mr. Miller. We will hear from the applicant please.

TOM DOCKING WITH MORRIS LAING EVANS BROCK & KENNEDY CHARTERED ATTYS, 4TH FLOOR-GARVEY BUILDING, 200 W DOUGLAS, WICHITA KS 67202:

I am here on behalf of Community Solutions, Inc., which is a non-profit corporation under contract with the Kansas Department of Corrections for the administering of the Day Reporting Center program at the three locations in Kansas, one in Wichita, Kansas City, Kansas, Topeka. The Topeka facility is up and operating, and the Kansas City, Kansas facility is at a similar state as the Wichita facility I would say. I thus represent the applicant, and nominally would be in a position to advocate for the requested approval of the zoning change.

We are in a minimalist position because of the peculiar status of this project, in so far as it has been Community Solutions position from early on that the facility needs to go into an appropriate location, or at least a location with a minimal negative on the local community on which the site would be located. Thus, Community Solutions' early efforts at siting at Twin Lakes and a number of other notable locations I will not bother to discuss with you that were determined not to be very appropriate. It was Community Solutions' effort at that point to seek aggressive participation in the search process from the City of Wichita, so that we could publicize the nature of the search and hopefully weed out a lot of the sites that would be deemed inappropriate from a community perspective.

We sought active input from community advocates in that regard, and feel confident that the two locations that have been advanced to the City, that being Bridgeport and the other being the old prison farm at Harry and McLean, that either location would be appropriate for the location of the Day Reporting Center. We are not advocating that it must be one site versus the other, we would be happy with either location. I am also prepared to answer as many questions from you as I am capable of answering. Thank you.

HENTZEN: Mr. Docking, there is a significant number of people that are going to have to report there every day?

DOCKING: Six days a week.

HENTZEN: Rest on Sunday. But how are they going to get there? What is the transportation situation?

DOCKING: If they have a car? Keeping in mind, Mr. Hentzen, that these are people who are out on parole. They are free, they are on our streets in our residential areas as we speak, legally, but they have violated some term of their parole that is not deemed serious enough to warrant sending them back to prison. I would be speculating, but I would say missing a meeting with your parole officer or perhaps associating with somebody that you are not supposed to be associated with. Some violation of the terms of the parole that is not deemed serious enough to warrant sending the person back to prison, but is serious enough to warrant putting them into this kind of counseling and reporting program.

They will have a Global Positioning System attachment that will allow the computer monitoring of their location at all times and will report automatically if they are at a prescribed location. I may have lost the point of your question, am I getting anywhere near? Transportation, will they will drive their own car if they have a car or they will take the bus if they need to take a bus. The question of whether bus service is available up there or not I do not know. I have been assured by the City of Wichita that if this place is picked, there is going to be bus service there.

HENTZEN: Do we have a commitment like that? I am not sure that all these people are going to have cars.

DOCKING: No, probably a lot of them won't, but they can take a bus.

HENTZEN: Okay.

BARFIELD: Sir, I know you stated that either position that the City has looked at would be suitable. I have questions and concerns. For a number of years, the facility that you referred to as the former City prison housed people who have been convicted of the same types of crimes that these people that we are dealing with now, and it was a suitable location, it was a secure location, why would that not be suitable today?

DOCKING: Our position is that it would be suitable today. You are talking about the old prison farm?

BARFIELD: Yes, sir.

DOCKING: Community Solutions is of the belief that the Harry and McLean location would be suitable for this facility.

BARFIELD: If that facility were used, would we be talking about building a new structure or use the one currently in place?

DOCKING: It would be a new structure, probably of the same modular construction as being proposed here. I should add by way of closing that we are operating under a federal law that directs funds for the operations of this program in the 50 states including Kansas. We are also operating under a Kansas Statue enacted by the 2001 Legislature, I believe in response to difficulties associated with the location debate in Kansas City, Kansas and in Wichita, that authorizes the Kansas Secretary of Corrections to disregard input from the City if he so chooses and in fact locate it wherever he wants.

This is not a result that we encourage anybody in this region to advocate. The end result if that occurs is going to please virtually nobody. It is thus with some extra energy that we urge the MAPC, the City Council, and anybody else in the region who cares about the impact that this facility will have where it is located that an appropriate location be determined as soon as is feasible.

BISHOP: I understand that originally the number of the capacity for the facility is, correct me if I am wrong, 160?

DOCKING: Capacity is 120.

BISHOP: I noted that it was mentioned of potential expansion of the facility at some point. I have two questions about that: if you could expand on that a little bit? and would that be the case no matter where it is located?

DOCKING: Yes, if it is expanded. There are no plans for it to be expanded that I am aware of; there is no money in the pipeline for that. I think city planners maybe are trying to anticipate the possibility that if the program is deemed a success -- success being defined as allowing the State to avoid building new prison space -- that it may be expanded at some point in the future. If it is then I suppose that it is logical to go to the place where an existing facility sits because it has gone through the public process, but this is all speculation. I don't even know if the program will be in place in 10 years.

MICHAELIS: Any further questions for the applicant? Thank you, sir. Anyone else in the audience wishing to speak in favor of this application?

TARA STOUT, CO-PRESIDENT MCCORMICK NEIGHBORHOOD ASSOCIATION, 510 HENDRYX, WICHITA KS 67213: We believe that a Day Reporting Center should be located as far as possible from any residential area. We believe that individuals need to feel as safe as possible in their neighborhoods, whether it is children walking home from school, or playing outside, people need to feel as safe as possible around and in their homes. A lot of homeowners do not have a security system where most businesses have some type of security in place. A Day Reporting Center would also have a negative effect attracting and keeping homeowners in a neighborhood, having a negative effect also in revitalization efforts. I support the initial ruling of the City Council to place the Day Reporting Center in the Bridgeport

Industrial Park, where I do believe there is room for expansion.

MICHAELIS: Any questions for Ms. Stout?

BARFIELD: What is your address?

STOUT: I reside at 510 Hendryx.

BARFIELD: How long have you lived there?

STOUT: Almost five years.

BARFIELD: Where you there when the City prison farm was up and running?

STOUT: No, but my grandmother lived right down the street from it so I remember driving by.

BARFIELD: Did she in anyway feel unsafe at that location?

STOUT: That was when I was pretty young so I just remember comments basically about it being there.

MICHAELIS: Anyone else wishing to speak in favor of this application? Anyone wishing to speak in opposition? Can I get a show of hands; approximately how many people wish to speak? Just step forward. While they are getting set up there and since we have so many speakers that are wishing to speak on this, I would really like to reemphasize part of our statement prior to the hearings on no duplication and repetition of items, so if somebody covers a point you are wanting to make, please be respective of that.

HOC INDUSTRIES, WILLIAM R NATH, CHIEF EXECUTIVE OFFICE, 3511 N. OHIO,

P O BOX 2609, WICHITA KS 67201-2609: I am a native of Wichita and I am with HOC Industries, formally known as Home Oil Company. My grandfather, C. A. Nath, founded this business in Wichita in 1929. We are located and own the land directly across the street from the proposed Day Reporting site or more clearly described as the Parole Violators Reporting Center. We wanted to say that because the contention of Day Reporting Center means Day Care Center and this is really a site for Parole Violators.

Our business is liquid packaging, specifically packaging flammable and combustible liquids. We employ approximately 45 employees, adding over 30 employees since moving to the Bridgeport location in 1987. We are a seasonal business, and generally work two shifts during our peak seasons of the year. We believe that locating the Parole Violators Reporting Center in Bridgeport is a bad choice for the following three reasons: 1) The safety of all employees in Bridgeport. 2) The immediate and long-term depreciation of our investment and the City's investment in the Bridgeport area. 3) The incompatibility of parolees with the nature of our business.

First of all, we know that locating the Parole Violators Reporting Center in Bridgeport will put our employees and the other employees in the immediate area in jeopardy. During the winter months, most of our employees, including at least seven female employees, will leave work after dark while the Parole Violators Center is still operating. Since this area is isolated, many of our employees are very concerned about their vulnerability. By introducing this criminal element into such an isolated area, we believe the opportunity and propensity to commit a crime is greatly increased. Much of the vacant land in this area is grown up with trees and bushes which obscures a line of sight from any direction.

We are somewhat familiar with the GPS control device previously mentioned in used in tracking these criminals. We have had a temporary employee agency send a parolee to our facility. This device is secured with a neck strap and can be easily removed. It could be many hours before a criminal could be detected should they want to remove the device.

Secondly, the monetary investment we and the City have made in Bridgeport III will be greatly compromised. We currently have over \$3,000,000 of land and buildings as appraised on the tax rolls and an additional \$3,000,000 in equipment and inventories there at HOC Industries. If the new Parole Violators Center is located in Bridgeport, we know that new businesses will not locate there. We know this because we feel the same way. In fact, we have a proposal pending for a packaging contract with a national company today. If we are successful with this contract, our

plans include a \$750,000 building expansion, to be built by Hutton Construction, on our land directly across the street from this site. However, if the Parole Violators Center is located in Bridgeport, we cannot in good conscience continue to invest and expand our business there. We would be forced to locate elsewhere. It would also be a shame after spending millions of taxpayers' dollars to develop a premier industrial park to then reverse directions and allow a Parole Violators Center to ruin the future economic growth of the entire development.

Thirdly, we are greatly concerned about bringing 120-480 parolees or parole violators if in fact it is expanded four times, which we have seen in some of the plans we saw twice today, but four times near our facility because of the hazardous nature of our business. One of our largest volume products that we manufacture is Coleman Stove and Lantern Fuel, which is extremely flammable. We package this product for the entire nation and ship this fuel from coast to coast. We also package charcoal lighter fluid for Safeway Stores and Wal-Mart in addition to other smaller regional customers. During our busy season, we could have as much as 250,000 gallons of flammable and combustible liquids in our facility. We take extreme precautions in working with our in-house safety director and the City fire department's hazardous materials team to maintain a safe environment throughout the plant. We have instituted rigorous hiring procedures, which result in hiring only responsible, drug-free employees to interact in our hazardous environment. We believe that locating the Parole Violators Center next to our plant and bringing all of these parolees into our area who have proven to be irresponsible with their behavior is taking undue risks and puts our employees and the community in danger. Even though the City has explored many other possible locations, we believe that this is not the time to give up and settle for a location that is bad for the City from a long term perspective.

MICHAELIS: Sir, your time is up. Next speaker.

J P WEIGAND AND SON INC., RANDAL JOHNSTON, 150 N. MARKET, WICHITA KS 67202: I am a lifelong Wichita resident. I am a commercial real estate broker and have been employed there for 13 years. My involvement in this area is two-fold. One, I have a direct interest and ownership in two parcels of ground here, one directly south of the subject property and another a 5,000 square foot warehouse right up here. I am a partner with George Pearson, a company called Industrial Development Investors, LLC and that is my direct involvement and ownership in that area.

My other involvement is as a commercial real estate broker. I have worked in this vicinity for over the last decade making industrial brokerage transactions. I sold an 18 acre site here, 13 ½ acre site here, 4 ½ acre site here, 5 acre site there, 7 acre site there, 21.9 acre site here. So I am very, very, familiar with the area and what has transpired up there.

I am opposed the location of the Parole Violators Reporting Center in this area, for two reasons. One, I think it will adversely impact the values in this area. Secondly, it will stifle continued industrial development. In the second regard, my partner and I are perfect example of potential stifling of future development. We are presently putting on hold a \$500,000 warehouse project on that site right there. We cannot in good conscience think it is prudent to put a ½ million dollar investment in that area which would be a speculative distribution warehouse building of 15,000 square feet.

Let me paint for you a scenario that we think is all too likely to happen up there. Consider the fact that if we had this building under construction or had it completed and this Reporting Center went up there. We now have a 15,000 square foot vacant warehouse we are trying to find a tenant for. Consider the fact that a large corporation, say Sears, is in need of a distribution center close to a highway, close to an interchange, need something to service their local stores out of. In most likelihood, I would meet with the Sears corporate real estate representative and met him at the site, show him the building, kick the tires, talk about weight loads of the concrete, ceiling heights, truck wells. But here comes the important part, as a licensed real estate broker in the State of Kansas, I am going to have to disclose any material fact to this prospective tenant. That would mean the Day Reporting Center up there. I can tell you my experience dealing with major corporations in the last 20 years. If there is anything I have learned, they are risk adverse, and the discussion would be over. They would simply say we don't need to take on the added liability exposure of locating in your facility; thank you, anyway.

That would be only one portion of the market that could look at this. We could also look at the smaller local or regional tenant who may not have the same exact concerns as a major corporation with big net worth and deep pockets. But, their concerns are going to be these: they will say, will we be able to hire employees in that area? After all, in good conscience we will also need to disclose what is up the street from us. Are we going to be able to staff our building with female employees that we need, will we be able to retain them, will they be safe?

I think you can see where I am heading with this is you have taken out a significant portion of your demand for your property. To George and I it is a simple matter of economics of supply and demand. When you reduce a significant portion of your demand you thereby decrease the value. Unfortunately, it will have some ripple effects, and that would be that the long-term real estate tax revenue from properties in this area will also continue to decline. I think that is the extent of my remarks.

MICHAELS: Thank you. Any questions for this speaker?

WARREN: Have you had the opportunity to voice these concerns up until now directly to the City governing body?

JOHNSTON: No.

WARREN: There has never been a hearing that you have been invited to?

JOHNSTON: I don't know exactly what the solution to this is, but I kind of think that El Dorado had the right idea. They put their facility out away from urban development. It is next to agricultural ground, which is very unlikely to be negatively impacted by a facility out in that area. I don't think you have to go any further then a few blocks from the front door of the City Hall here; there is a facility at 207 N. Emporia, there is the old Santa Fe building at Emporia and Waterman. Take a look at those areas and see if you don't think development around those areas stagnated.

MICHAELIS: Next speaker please.

ROBERT L. COATS, MASSCO, CFO, 1837 S. MERIDIAN, WICHITA, KS 67213: I am also a lifelong residence of Wichita, Kansas. Massco began in Wichita in 1982, we are a wholesale distribution company for maintenance and janitorial supply products, as well as developing several other businesses in the area. We first became interested in this area about two years ago when we were looking to sell our current branch location and relocate our corporate offices into one facility. Our current branch was located at a building that we owned at 1831 S. Meridian here in Wichita. We sold that building and began to lease it and purchased land just to the south and west of the proposed DRC. We did that with the intention to build at that location a larger facility for expansion and bring three of our locations together into one site. We did purchase also more land then we had anticipated needing and that was for investment purposes. Our concerns with the location of the DRC at this particular location are three fold. One is safety concerns. When we were looking at this site originally, we brought our employees out to this site, and we said look at where this is; it is in an industrial area, that is the purpose as we had reviewed for the development of that area, and all of them told us that they would not be uncomfortable with a facility in this area. We have since done that again after explaining to them and showing them the plans for this proposed site and have gotten a totally different reaction on that. I will not speak further on that issue because I think some of the others have already voiced that, but that is a significant concern to us.

In addition, we are concerned with property value in that area. As I said, we not only purchased enough property there to be able to relocate our facility and expand the facility, but we also looked and purchased additional area there beyond our own needs, and that was for a purpose similar to what Randy had proposed, to look for development in that area. We have subsequently to that purchase, several month ago, sold one of those lots actually to the City of Wichita. We sold that for the purpose of the Latino Soccer Fields. We considered that significantly in our decision to do that. We wanted to move into an industrial area, we wanted that area to be an industrial area. However when we saw the situations that were occurring with that Latino Soccer Field in other areas, the difficulty the City was having, we sat down, we reviewed that whole scenario and we thought that use would not be incompatible to our needs in the area, it would not be a threat to our people or a threat to our property. It is my understanding that although that is an adult facility, that families do attend to watch the adults play, and there are a number of different kids that come into that area as well.

There were several comments that were made about GPS and other things in that area, transportation into that area. My understanding is that there is no current transportation into that area, so that would bring in even more influx of people into a proposed industrial area. The GPS systems it is my understanding that those are only worn during the period of parole and not subsequent to that. When the folks that are reporting to that area, they immediately get used to that area and they see what is available there and they become familiar with the properties, and additional opportunities, I think, present themselves. We are voicing our opposition in this use of the property, and I appreciate the opportunity for letting me present.

MICHAELS: Thank you. Any question to the speaker?

ANDERSON: This is not a question for you sir, so you can go ahead and sit down.

I think this is an unfortunate situation that is going on here from the standpoint of the location of this kind of facility. The City of Wichita has not really addressed the issue as it relates to where we should locate these kinds of facilities. We just had another case before us two cases ago when we were talking about a residence for young kids that had problems. Basically, it's the same kind of situation where you have got health needs or penal institutions that are looking for places to deal with the people that are in their systems.

I think the City of Wichita needs to seriously look at how we are going to provide facilities for these kinds of activity, where that should be. I can remember back when I was the industrial development officer for the City of Wichita, that has been a number of years ago. We developed Bridgeport as an industrial area for the City of Wichita, and we would have never thought of putting this kind of facility in that area. Not that right now it looks like it is an easy one, because the only people we are going to make mad is the ones that are trying to business up there and we are not talking about residential areas. I think what we should do in terms of the community concerns planning is to try and develop locations for these kind of facilities. I think that it needs to be done. We have located some of these facilities downtown in the Central Business district where you don't have people in residential areas or businesses that are going to be as concerned about this.

I don't know whether that is the right location but I do know that it was never intended that this kind of facility be put up there, and it might go there if we don't come up with some other way of handling it. I just don't know where we are at in terms of this Commission, but I can say right now that I am not in favor of putting this kind of facility in that location because it doesn't belong there.

MICHAELIS: Next speaker, and I would like to emphasize that I think the Commission has well received the points of safety and property values, so if we could maybe limit those items.

KANSAS CONCRETE CUTTING, INC., CHARLES PHILLIPS, 3410 N. OHIO, WICHITA, KS 67213: We are located right here on the map. This is where the facility will be. This is all open area; it has not been developed yet; it is all weeds, trees and it is not a good area to have people in.

I have been in the business since 1978. We bought that property and the building from the City in the mid 80's with the understanding that was going to be an industrial park. I can't see why we are bringing people like this in our area is going to help in anyway for our businesses to grow. We were going to purchase more land and we were going to build another building for our office; that is on hold. There is no use spending good money after bad. We have already had break-ins up there; we have had thefts; I got bullet holes in my building. I just can't see how bringing more felonies into that area can help that problem. That is basically what I have to say.

MICHAELIS: Any questions for Mr. Phillips? Next speaker.

GEORGE PEARSON, 2542 Plum Thicket, Wichita, KS 67226: I am an investor and developer of warehouse space. Some of what I wanted to say Mr. Anderson said. Let me just put a historical context on it, I will be brief. My first investment in the Wichita Industrial District was buying 10 acres between 37th and 35th Street and between Santa Fe and St. Francis and putting in a warehouse to put that land into play. The City was a great partner. They came along, they finished the street improvements and the other improvements as I expected they would, as I was lead to believe they would, and to develop that area into a quality industrial park.

So, in 1995, I got together with Randy Johnston, as he had said earlier, and he and I bought some property again from the City, and we had a national customer who wanted a distribution point. So we built a warehouse and we moved him into that warehouse which would be north of 37th Street, north of Bridgeport Circle. At that time the City had a big groundwater contamination problem and they came in and they dealt with it and we had confidence that they would.

So we bought some more land down here, in 1997. As we expected the City made that problem go away and again we were lead to believe that the City was serious about developing this as a quality industrial park and they did. So we continue to be active and this year as Randy said early we are now sitting with a contract from Hanner, Form and Harness for \$500,000 to start a 15,000 square foot spec warehouse. Now, this spec warehouse is a little bit risky, but

bringing in the Center on top of the spec warehouse layers uncertainty on top of risk. It is not something that we are comfortable doing; it is not something that we will do.

The City's action seems contrary to its 20 years history of encouraging development in this industrial area. It appears to us that the City is no longer committed to offering an attractive industrial park for developers. We believe that the City is undermining its own investments, as well as our investments and the investments of other private investors. We believe that this decision by the City is a deterrent for future development in the area. In closing I would just like to ask, what other facilities might be housed in this proposed location if this Conditional Use permit is approved, we would like to know.

MICHAELIS: Any questions of the speaker? Next speaker.

A & H ELECTRIC, INC., RICK LOWE, 3030 N. OHIO, P O BOX 3436, WICHITA KS 67201: Thank you for giving me the opportunity to be here today. We own this piece of property right here, right at the corner of 29th and Ohio. I probably can address the transportation issue more than most because we sit right there on the corner facing 29th Street. The City bus does stop right there at the corner of 29th and Ohio. That is one of our primary concerns, is the fact that we are a construction company. We were founded here in Wichita in 1962, we moved up to Bridgeport about 10 years ago when we were looking for a place to expand because the City was promoting that as a prime industrial area.

If the Parole Violators Reporting Center is located on north Ohio, the reality of the situation is that everyday hundreds of parole violators are going to walk within 30 yards of my front door getting to the Reporting Center. The nature of our business being a construction company is that me and the other gentlemen that work in the office are gone all day at construction sites, different meetings, things like that and the ladies that work in our office are there alone. Often our ladies come to work before sun-up and are still there at night when the sun goes down, so we are extremely concerned about the safety of our employees. I will not pound on that point too much because I know we have talked about that before.

My second concern focuses on the impact that the Parole Violators Reporting Center would have on the Bridgeport area as a whole. In item number three of the staff's findings it indicates that there should be few if any detrimental effects on nearby properties. I think that assumption is plain wrong. We have already heard from several speakers who indicated that the development that is planned for that area is now on hold pending the outcome of this decision. On one particular project that several gentlemen have already spoken about is directly adjacent to our property and the dirt work for the project is already underway. They are moving dirt back there and working on that thing. But like they said they can't in good conscience go forward knowing that the value of their investment will be immediately devalued.

In item number four of the staff's findings it notes the significant financial hardship if this request is not successful. I would submit to this Commission that the financial hardship on the existing property owners should be no less a concern.

In item number five of the staff's findings it noted that it was conceivable that the Parole Violators using this facility could provide a convenient labor supply for nearby industrial users. I will not pretend to speak for any of my neighbors, but our employees go through a five year school to get the training they need to do. The work we do. They are highly skilled, and we are concerned about our workforce to the point that we drug test every single employee that walks through the door. Many of the companies that we work for, because we work in secure facilities around very technical equipment, already require KBI and/or FBI background checks. I won't pretend to speak for the other businesses up there, but the notion that any of the people that would be using this facility would provide any positive benefit to the businesses to that area is a stretch.

I think after giving careful consideration of the concerns raised here today and all the other matters that need to go into this decision, we believe that locating the DRC in Bridgeport is a bad choice, and we would respectfully request your denial of the Conditional Use permit for this location.

MICHAELS: Thank you, sir. Next speaker.

METRO XPRESS, KERRY SELL, PRESIDENT, 3518 N. OHIO, P O BOX 17194, WICHITA KS 67217: As you can see by the aerial our property borders the proposed site for the Parole Violators Reporting Center. We are leasing currently from Mr. Nath of HOC Industries and have been in discussion of purchasing that facility. The proposal in my opinion is

detrimental to the health and well-being of Metro Xpress and our employees. Mr. Chairman, I will not try not to belabor some of the safety issues but I think because of the nature of our business it is very important that I touch on a few of them.

We have 55 truck drivers arriving and departing 24 hours a day, 7 days a week; often late at night. Many times their wives or girlfriends come to meet them or send them off, and most of them have small children. We have eight office employees, four of them being women, one being a part-time bookkeeper that works late at night by herself and on the weekend by herself.

I also have material concerns because of the cost of our equipment. Our trucks are \$95,000, give or take, each. They are full of drivers' personal goods such as TVs, radios, clothing, that sort of thing, and all of our trailers are usually loaded with our customers' goods. Drivers' personal vehicles are parked in the yard for several days at a time. Most of this time the yard is unsecured because of the drivers coming and going.

In closing, I hope that it is clear to you that locating a Parole Violators Reporting Center at the proposed site would seriously affect the future of Metro Xpress's recruiting efforts and securing new business. This Reporting Center would also be detrimental to the future development of the Bridgeport Industrial Park by current tenants and others that might be considering this area for the future.

MICHAELIS: Any questions for the speaker? Are you speaking in opposition?

ELAINE OVERLY, 2819 E. WILMA, WICHITA: I am speaking for the Reporting Center. I handed around an article. This in relation to the reaction in Topeka to the Day Reporting Center being put there. Neighboring business people seemed unconcerned. Krallman, the Goodyear manager said, "The center hasn't caused problems for his store, he has seen some benefits, the Center's employees have done business with him", and I am going to emphasize: "the problem with break-ins stopped after the Center opened", he said.

MICHAELIS: Applicant, rebuttal.

DOCKING: I am not going to quibble with the large concerns that were expressed today. There will be some impact to the Bridgeport community; there will be some impact to any place where this facility will be located. The businessman tells me that he is concerned about the safety of his employees. I have no reason to dispute that, other than to point out when the City Council voted on the Bridgeport facility originally, they attached to it the requirement that there be a chain link fence surrounding the Day Reporting Facility and a chain link fence surrounding the adult soccer field in recognition of concerns about safety in the area. I could quibble about a few technical points having to do with the Global Positioning System apparatus. But, I think you are generally familiar with how Global Positioning System thing works. All of the clients, the people that sign-in to the Day Report Center facility, will be subject to Global positioning System monitoring during any period of time they are in this program. When they get off parole they are like you and me, they are not under any restriction of any kind and thus obviously will not be subject to wearing one of these collars. That is about all I have.

WARREN: Mr. Docking, in your opinion, and I am sure that is what it probably would be at this point, how much time, do you think? I understand that this is a federal program that is administered down through the State. How much time do you think they are going to allow for the site selection process before they come in with their mandating?

DOCKING: All I can suggest is that we have been monitoring concerns in Kansas City, Kansas, I can say some very complimentary things about Wichita and how they handle things compared to how they are handled in Wyandotte County, believe me. But, nevertheless, there have been concerns perceived in Topeka, at the Department of Corrections about the progress that the DRC project is making in Wichita as well as in Kansas City, Kansas. How much time will they allow? I don't know, they are currently authorized under this new statute to act. They are required to seek input from the locality; they are specifically exempted from being driven according to any input from the locality. Thus, I don't think they are anxious to exercise that kind of authority. I think if they perceive that we were making progress on actually locating a site, I think they would vastly prefer to have the community handle it themselves. Beyond that I don't know.

BISHOP: The original start date was scheduled for April of this year?

DOCKING: I believe that is right. Yes, I think that is correct.

BISHOP: We are already a number of months behind schedule and the federal money is piling up somewhere?

DOCKING: Yes it is.

BARFIELD: Let me ask you if I heard you correctly. I believe you stated earlier that the City Council is only making recommendation to State officials, and they don't have to abide by that recommendation.

DOCKING: That is correct; the specific law passed in the 2001 Legislative session, and it was as a practical matter in response to concerns about delays and getting this matter resolved in Wichita and in Kansas City, Kansas.

BARFIELD: My second question is: you mentioned the fact that when the Council looked at this and talked about the provision for chain link fences, that was no public hearing at that point, was there? These gentlemen that are here have not been to public hearings?

DOCKING: Yes, we had District Advisory Board meetings in this district and also the district at Harry and McLean. We had, I believe, two City Council meetings where this was discussed in open session, and public comment was believe me sought and received. So there has been an opportunity for public input on this matter.

MICHAELIS: We can bring it back to the Commission. I would like to see if Mr. Lang could come to the podium and give me a clarification. It seems by the testimony that we have heard that we are being asked to decide if this is the proper location for this building. In reality what we are suppose to do is to determine whether a Conditional Use permit for this should be authorized. If we were to authorize a Conditional Use and this testimony goes back to the City Council, could they still if they wanted to decide to put it in another location? I guess where I am coming from is technically this is the public hearing for the City Council. Would it make any sense at all for them to hear this before we make a decision?

JOE LANG, FIRST ASST. CITY ATTORNEY: As has been referenced there have been a number of issues involved, including the licensing, the idea of what sort of agreement would be done with the facility. What is before you today is a very narrow issue of a Conditional Use, a land use question; is this particular location an appropriate location for this facility? Your decision today is final whichever way you go, unless someone appeals it to the City Council. If it goes to the City Council, they will hear it on the record that you have made today. They would have the option, it will be a separate decision, whether or not to lease this property to the Day Reporting Facility; that would be a separate decision made if in fact the Conditional Use is approved. Council obviously has the option to make other decisions about the use of the land they own at this site or the other site, so there are other considerations besides the Conditional Use that the Council still may want to deal with. I don't know if I have answered your question.

MICHAELIS: Well, you have, and that is what I wanted everyone to hear; that it is a land use issue, not a location issue.

LANG: That is correct.

WARREN: This is a real sticky case; I don't know that we have ever dealt with one quite like this. But, undecided by us there has -- and Mr. Lang I would like to have you respond to this. Normally we are dealing with land use, and the property owner in this case being the City of Wichita has a right to use his land for those things that are legal and allowable under the Zoning Ordinance. The Conditional Use comes into those same things, but now there is -- and it looks to me like we are put into somewhat of a position of site selection, in that there is two properties that have been strongly recommended here. So when we say that we think that this is proper as a Conditional Use, I can't help from thinking that we are saying as 'compared to what'? We might have to consider that as compared to another site.

LANG: Obviously you are not operating in a vacuum, Mr. Warren, and while you have just this one site in front of you, obviously in your mind some of you are making some comparisons, and you do that in many other cases -- for example, with cell towers and that sort of thing. But, the City or someone could have moved forward with several sites at once for a Conditional Use and then had somebody else make the decision if which of those sites would be the final location. In this case you have just one site technically in front of you, but if this site is denied and the Council affirms that denial, then another site will have to come forward to you, because these are always Conditional Uses. So wherever this facility is sited, it will need to come forward as a Conditional Use with you considering that specific

location.

ANDERSON: You know the City of Wichita 25 or 30 years ago made a decision to redevelop that area because it was a slum area from the City's standpoint. The housing was deteriorated, and it was made into an Urban Renewal project called Bridgeport. I don't know why we ever came up with that name; I think there was a school up there named Bridgeport. Then the City over a period of 20 years worked diligently along with private enterprise to try and develop that area as an industrial area for the City to provide jobs and employment. I think that we are still on that track. Now the City of Wichita still owns a lot of property up there and it is hopefully going to be developed for industrial purposes to provide jobs, which is the reason the City got in that business in the first place. I don't think that we are talking about a land use situation here right now, and we decided a long time ago that land was going to be used for industrial purposes to provide jobs, employment for the City.

Now we are dealing with another social problem that doesn't relate with that type of land use. I think that is the reason why, Mr. Chairman, that I just can't support that at this time. City Council has to decide where they are going to locate these type of facilities within the community. It doesn't make any sense to try and do it in an area that they have already decided that they are going to make an industrial area.

BARFIELD: I too am a lifelong resident in Wichita, I can recall growing up here and the City operated the City prison farm and for many, many, years, and I can't for the live of me think about any safety issues or safety concerns that were ever raised during that period of time. This is one question that I would have for Mr. Lang: the zoning for that certainly would be different for this, so I don't necessarily know why, you can explain this to me, why it would be necessary to have to have a Conditional Use permit at that particular location, where the City Prison farm is. You said wherever we went we would have to seek out a Conditional Use permit.

LANG: Right, this type of facility is allowed only with a Conditional Use whatever the underlying zoning, whether or not you need rezoning; even in an allowed zoning situation as Bridgeport, which has proper zoning but it still requires a Conditional Use, so that every time a facility is planned, you have this opportunity for public hearing and input.

BARFIELD: If we look at this from a pure standpoint of the best use of this land, I certainly cannot believe that placing this facility in that area is making the best use of that land. I simply can't support that. If we are ready, I am ready to make a motion.

MICHAELIS: We are not ready yet.

MARNELL: I don't think you can deny him making a motion. I am not usually the one that makes philosophical statements, but this is a very difficult area. I think as a society we have some very bad tendencies, we see people make mistakes and they are suppose to pay their penalty for that and then go on with life. But reality tells us that a lot of those folks that make mistakes continue to repeat making those mistakes and we don't believe they are rehabilitated very well in our systems, that they tend to be just housed. So I fully understand the safety concerns that people have with a facility like this. But it has to go somewhere and we are bound by State law to deal with it. Additionally, this thing is very troubling because of the testimony that we have heard from the landowners and the developers and from Commissioner Anderson. I think the City has spent a great deal of money. I certainly can't remember what it was from the past articles in the paper, but I remember following this issue of cleaning up the contamination up there and making this an industrial site, and that is something that affects all of the tax payers and not just the businesses located there, as opposed to some other site. That is the community-wide investment that we have made that would be put in jeopardy if we put it there. So I want to hear what other people have to say; I haven't fully made up my mind, but I am definitely leaning against it for those reasons, and it is unfortunate; it is a very, very, difficult question.

MICHAELIS: Just a very quick comment, because I think if this were to come back and we would be looking at the prison farm location, I think you can take this room and just flip it. Those people would now be in favor or it, and these people would now be against. That is the kind of situation that you are faced with.

BISHOP: I agree that there aren't any truly good answers to a problem like this. The issue is siting an endeavor that does not truly fit or go with any other use in the City, so how do we make that decision? I believe that it needs to be made on the basis of land use and whether or not this is an appropriate site based on the intensity of use, based on

the number of people, etc. One of the things that I would like to remind you is that on page 2 of the staff comments are the facts that yes, this decision could be made elsewhere and made for us. I would hate to see this community come to that kind of an impasse where that would be required. I really think we can do better than that.

Secondly, this was occasioned by Senate Bill 323 which creates the Day Reporting Centers and places them in three different communities in the State for the purpose of not creating more prison beds, which are the most costly way to deal with a correction need for the State, and that means a higher cost to taxpayers, and it is a considerable cost. Right now, the prison system is running pretty much at maximum if you follow, and I have served on the Community Corrections Advisory Board and on the Alternative Correctional Housing Advisory Board for six years.

If you follow the process, it is coming pretty close to maximum much of the time, and a lot of work goes into trying to deal with that without building expensive prison beds. This seems to me like it has the possibility of being a valuable service. Nobody is going to want it in their neighborhood, in any vicinity that could possibly have an impact on them, and there isn't really good decision. I don't know exactly what the motion is going to be, but I would support the placement in the Bridgeport area with the staff comments.

KROUT: I just want to add a little more context and background, and maybe remind the Commissioners that, the locational policy issue is one that you dealt with in the last year. I guess that is not true for Commissioner Bishop and Anderson, that were not on the Commission at the time. If you recall, those of you that were part of that discussion started with the original interpretation that Day Reporting was a use that was probably permitted in any office district in the city. That started a discussion --and I think the Planning Commission had intensive discussions -- about the locational policy about where should these be located in the City. You made recommendations and those recommendations were followed, as I recall, without major changes by the City Council.

I remember our original recommendations were that it be allowed to be located in the downtown or in Limited Industrial or General Industrial areas. Downtown was not recommended by the and by the City Council. So the policy embedded in the Zoning Code indicates where, at the time we discussed this, less than a year ago, where we thought that these ought to go. We also talked about the 750 foot standard from a residential district that was in place for correctional facilities. I recall the Planning Commission saying that these kinds of facilities ought to be located even further, and that was embodied into the licensing. Not all of you maybe agreed with that, but that was embodied by the City Council in their licensing provisions, that these should be in Industrial districts and not close to Residential districts.

Finally, we talked about whether or not there ought to be places that are allowed "by-right" or require Conditional Use permits. I think telling the Planning Commissioners that you can expect to receive opposition if you have Conditional Use permits for every location in the City; you can expect opposition at every hearing for every Conditional Use permit. So, you shouldn't be too surprised that there is going to be the opposition that you heard today.

I think that the City staff did the best job that it could have of looking at a wide variety of sites and narrowing it down to what they thought the most appropriate feasible site, but using as criteria the ones that were discussed by you and by the City Council about where these facilities ought to be located. I am not saying to ignore the other testimony that you heard this afternoon, I think you have to weigh everything together. But I am saying that we need to put it in context of adopted plans and policies, including of the locational policy that the Planning Commission did discuss and make recommendations on to the City Council, and which led to the identification of this as a likely suitable site.

MICHEALIS: Mr. Barfield, we are ready now if you are ready to make a motion.

BARFIELD: Let me just make one quick comment and then I will make a motion. Marvin, I would like to remind you that I agree with you that we did set guidelines for where these are to be located. I would also like to remind you that the City Council itself -- with the advisory -- about this particular location; there was some Council members that were not in favor of locating in this location.

BARFIELD moves ANDERSON seconds to DENY this request at this particular location.

WARREN: I would just like to comment on Mr. Krout's recollections of the year or two ago. I think he is fairly accurate, one thing that I would take exception to is that this Commission ever made any position opposing a downtown location, because I don't think we ever did. That was not a part of our recommendations or failure to recommend that we talked about.

BARFIELD: Any further discussion on the motion?

MOTION: To deny.

BARFIELD moved, **ANDERSON** seconded the motion, to deny (7-1-1) **BISHOP** opposed, **WELLS** abstained.

ANDERSON: Mr. Chairman, I think it is appropriate that the people that wanted this location that somebody had better start trying to figure out how to plan this thing. I think maybe the Planning Commission might be helpful in that area too; I don't know but at least I can't imagine that we can't find a place for this thing, and I would say that it ought to be downtown someplace.

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- 10. Case No.: ZON2001-00053** - Zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial with a Protective Overlay to limit uses generally located south of 45th Street North and west of Webb Road (4211 N. Webb Road).

A TRACT OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 2 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS DESCRIBED AS FOLLOWS: THE SOUTH 5 ACRES OF THE EAST HALF OF THE SOUTH HALF OF SAID NORTHEAST QUARTER.

BACKGROUND: The applicant requests a zone change from "SF-5" Single Family Residential to "LI" Limited Industrial on a 5 acre unplatted tract located south of 45th Street North and west of Webb Road. The applicant also proposes a Protective Overlay (see attached letter dated August 24, 2001) that would limit the industrial uses permitted on the property, provide greater building setbacks, increase landscaping requirements, and restrict signage.

The applicant owns the 20 acre tract immediately south of the subject property that is zoned "LI" Limited Industrial and is developed with an asphalt and concrete plant. The applicant proposes to combine the 20 acre tract to the south with the 5 acre subject property to create a 25 acre industrial redevelopment project similar to the industrial developments to the south and west. The applicant proposes that the Protective Overlay will apply to both the 5 acre property requested for rezoning as well as the existing 20 acre industrial property; however, since the applicant provided an ownership list for notification around the 5 acre tract only, the restrictions on the 20 acre tract will need to be in the form of a voluntarily-offered restrictive covenant.

The surrounding area is characterized by mixture of uses with suburban residential uses to the north, industrial uses to the south and west, an airport to the east, and urban-residential uses further to the west in the Willowbend development. Properties to the north are zoned "SF-5" Single Family Residential and are primarily developed with single family residences on large lots. The property to the south is owned by the applicant, is zoned "LI" Limited Industrial, and is developed with a concrete and asphalt plant. Further to the south and to the west of the site are properties zoned "LI" Limited Industrial that are currently developing with industrial uses. East of the site is Jabara Airport on property zoned "LI" Limited Industrial.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" Single Family	
SOUTH:	"LI"	Concrete and asphalt plant
EAST:	"LI"	Jabara Airport
WEST:	"LI"	Developing industrial uses

PUBLIC SERVICES: The site has access to Webb Road, an arterial street that is currently being widened to four lanes. Webb Road has current traffic volumes of approximately 2,100 vehicles per day. The 2030 Transportation Plan estimates traffic volumes on Webb Road will increase to approximately 3,300 vehicles per day. Public water and sewer service can be extended to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for “Low Density Residential” development. The Industrial Locational Guidelines of the Comprehensive Plan indicate that the factors to be considered when locating industrial uses are: the characteristics of the individual use, the surrounding uses, the zoning district, and the degree to which the specific use would clash with adjacent uses. The uses surrounding this site already exhibit a mixture of commercial/industrial uses with residential uses, indicating a general acceptance of mixed-use development in the area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for “LI” Limited Industrial be APPROVED, subject to platting within one-year and subject to the following provisions of a Protective Overlay District on the 5 acre tract and a voluntarily-offered restrictive covenant on the 20 acre tract:

1. The subject property shall be limited to all uses of the “IP” Industrial Park district in addition to the following uses permitted in the “LI” Limited Industrial district: Church or Place of Worship, Convalescence Care Facility (Limited and General), Hospital, Funeral Home, Hotel or Motel, Medical Service, Recreation and Entertainment (Indoor and Outdoor), Retail (General), Vehicle Repair (Limited and General), Agriculture Research and Agriculture Sales and Service (limited to greenhouses as defined by the Unified Zoning Code).
2. The subject property shall be restricted to the property development standards of the “IP” Industrial Park district with the exception that front and street side building setbacks shall be 35 feet. The subject property shall also provide a 25-foot building setback along the north property line where adjacent to residential zoning.
3. The subject property shall provide a screening fence and landscape buffer planted at 1.5 times code requirements along the north property line. Existing vegetation may be included in the fulfillment of this requirement. The subject property shall provide a 20-foot landscape buffer along the Webb Road frontage.
4. All off-site signs are prohibited.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by mixture of uses with suburban residential uses to the north, industrial uses to the south and west, an airport to the east, and urban-residential uses further to the west in the Willowbend development. Properties to the north are zoned “SF-5” Single Family Residential and are primarily developed with single family residences on large lots. The property to the south is owned by the applicant, is zoned “LI” Limited Industrial, and is developed with a concrete and asphalt plant. Further to the south and to the west of the site are properties zoned “LI” Limited Industrial that are currently developing with industrial uses. East of the site is Jabara Airport on property zoned “LI” Limited Industrial.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned “SF-5” Single Family Residential is currently developed with one single-family residence on a 5 acre lot. Given the property’s narrow 150 foot width and its close proximity to existing industrial zoning and uses, it is unlikely that the property will develop with single family residential uses at urban densities.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Protective Overlay that limits uses, provides greater building setbacks, increases landscaping requirements, and restricts signage should limit detrimental impacts on neighboring properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for “Low Density Residential” development. The Industrial Locational Guidelines of the Comprehensive Plan indicate that the factors to be considered when locating industrial uses are: the characteristics of the individual use, the surrounding uses, the zoning district, and the degree to which the specific use would clash with adjacent

uses. The uses surrounding this site already exhibit a mixture of commercial/industrial uses with residential uses, indicating a general acceptance of mixed-use development in the area.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

Scott KNEBEL, MAPD staff, presented the staff report and slides.

RUSS EWY, agent, indicated they were in agreement with staff comments.

MARION STEVENS, neighbor to the north, asked what would happen to his livestock; could a future tenant make complaints regarding his livestock. He also indicated that he was told that property served by the rural water district could not be rezoned until the water district was paid off.

KROUT stated that he did not think this rezoning would impact the water district as the applicant will have to hook up to the City of Wichita's water service. He further indicated that he would get someone from the Health Department to contact Mr. Stevens.

BISHOP asked where Mr. Steven's property was located.

STEVENS indicated he owned the two-five acre tracts located immediately to the north.

EWY stated he would work with Mr. Stevens during the platting stage.

MOTION: To approve, subject to staff comments.

WARREN moved, **ANDERSON** seconded the motion, and it carried unanimously (8-0).

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- 11a. Case No.: ZON2001-00052 – Colby B. Sandian & William P. Higgins, Benchmark Holdings, LLC, c/o Phil Bundy, and Daniel M. Carney (owners) request zone change from "LC" Limited Commercial to "GC" General Commercial; and

- 11b. Case No.: CUP2001-00033 DP-37 - Colby B. Sandian & William P. Higgins, Benchmark Holdings, LLC, c/o Phil Bundy, and Daniel M. Carney (owners) request an amendment to DP-37 Ridge Plaza CUP to allow more intensive uses on Parcels 11-13 and 18-20 generally located north of Kellogg and west of Ridge Road.

LOTS 2, 3 AND 4, BLOCK A AND LOTS 4, 5 AND 6, BLOCK B, RIDGE PLAZA 8TH ADDITION, WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS.

BACKGROUND: The applicant is proposing to amend DP-37 Ridge Plaza Community Unit Plan and rezone Parcel 11, 12, 13, 18, 19 and 20 from "LC" Limited Commercial to "GC" General Commercial. The amendment would permit a wider range of commercial and warehouse type of uses.

Permitted uses would be: animal care, general; construction sales and service; convenience store; financial institution; hotel and motel; manufacturing, limited; medical service; tavern and drinking establishment; office, general; personal care service; personal improvement service; recreation and entertainment, indoor; restaurant; retail, general; tavern and drinking establishment; vehicle repair, general; vocational school; warehouse, self-service storage; warehousing; and wholesale or business service.

The only use removed is private clubs, but tavern and drinking establishments are added in its place. Indoor recreation and entertainment uses are modified to permit all activities within these categories, including bowling alleys, bingo parlors, video game arcades, and indoor amusement rides. Currently, only certain indoor recreation uses are permitted. Parcel 11 permits theatres; Parcels 13 and 18-20 permit racquetball, tennis and health clubs; and Parcel 12 permits all these uses.

The new uses would be animal care, general; construction sales and service; manufacturing limited; vehicle repair, general; vocational school; warehouse, self-service storage; warehousing; and wholesale or business service. Several of these uses are first permitted in the "OW" Office Warehouse district, but several are not. A rezoning to "GC" would allow all the requested uses by-right.

No other changes to the C.U.P. were requested by the amendment.

The property is located northwest of the interchange of Ridge Road and Kellogg. The closest land uses are Typed Letters Corporation, Pitney Bowes, Sunrise Gymnastics, American Family Insurance and two vacant parcels to the north. Lowe's is located beyond University/Taft on the north. Another large vacant tract north of University, DP-245 Ashley Towne Centre, was approved for a shopping center but is not final because it has not been platted.

Ridge Road/Mid-Continent Drive is the eastern boundary of the proposed site. The Palace and several restaurants are located on the east side of Ridge (Carlos O'Kelley's, International House of Pancakes, Golden Corral). A hotel (Quality Inn), restaurants (Amarillo Grill, The Fortune Cookie) and an office park with many small tenant spaces are located to the west. Kellogg is the southern boundary. No uses are visible on the other side of Kellogg, but land is held in large acreages associated with the airport.

The parcels are on a main flight path to Wichita Mid-Continent Airport. Low flying aircraft fly over the site every few minutes.

CASE HISTORY: The property is platted as Ridge Plaza 8th Addition, dated April 18, 1982. DP-37 was originally approved on September 1, 1970. Amendment #1 was approved April 18, 1980 and primarily changed parcel boundaries to reflect the realignment of Ridge Road through the C.U.P. Amendment #2 was approved December 15, 1998; it rezoned Parcel 5 to "GC" and modified outdoor storage requirements for the proposed Lowe's. Amendment #3 for a cell tower was denied December 12, 2000.

A vacation of a 90-foot drainage easement (VAC2001-00040) is being heard at the same MAPC meeting as this request.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Limited Commercial	Business services, office, vacant, Lowe's
EAST:	"LC"	Limited Commercial	Ridge Road, The Palace, restaurants
SOUTH:	"LI"	Limited Industrial	Kellogg
WEST:	"LC"	Limited Industrial	Hotel, restaurants, office park

PUBLIC SERVICES: Transportation access is via Ridge Road and Kellogg, but none of the parcels have direct access. Emerson and Taft, local non-residential streets, feed into University/Taft on the north. There is a signalized intersection for Taft and Ridge Road. Emerson and Taft also feed westward to Holland or Woodchuck, which connects to Kellogg Drive and will have westbound access onto Kellogg at the Tyler interchange.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the subject parcel for "commercial" use. The development of these parcels for the new uses requested would conform to the III.B.6 Land Use-Commercial/Office Strategy 5 of "Confine highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar concentrations of uses (e.g. portions of Kellogg, Broadway, the CBD fringe."

RECOMMENDATION: Current zoning of the parcel, "LC" Limited Commercial, already allows retail uses, but does not permit the additional auto related and entertainment/recreation uses generally permitted along other segments of the Kellogg corridor and the office/warehouse types of uses.

Some existing uses in the vicinity, such as Typed Letters Corp. and Pitney Bowes, are similar to the requested warehouse and business service use. These firms, as well as construction sales and service firms, would be

expected to have larger truck dock areas for loading and unloading than typical retail commercial uses.

The proposed amendment intensifies the potential retail commercial activities by permitting vehicle repair, general, which consists of auto body repair and painting, and animal care, general, which allows large animal care and possible outdoor boarding facilities.

The proximity of the site to Kellogg and the conformance of the requested amendment to the Comprehensive Plan are factors in favor of approving the request. The visibility of the site from Ridge Road, which is elevated above the grade of the parcels, argues that some controls on signage, building exteriors, and outdoor storage are advisable to maintain an attractive appearance on the corridor approaching the Wichita-Mid Continent Airport.

For these reasons, Staff recommends the application be APPROVED subject to the following conditions for site development:

1. Parcels 11, 12, 13, 18, 19, and 20 shall conform to the standards in "OW" Office Warehouse, Sec. III-15(e)(2) Outdoor Storage.
2. Parcels 11, 12, 13, 18, 19, and 20 shall conform to signage restrictions of the "OW" Office Warehouse zoning district. No off-site or portable signs shall be permitted. No signs with moving, flashing, rotating signs or signs that create the illusion of movement shall be permitted.
3. A landscaped street yard shall be provided for Parcels 11 and 12 where the property line abuts the Ridge Road or Kellogg rights-of-way. This landscaped street yard shall consist of a ten-foot planting strip of trees of shade trees and conifers planted at a rate of one shade tree every 40 feet.
4. Buildings and outdoor areas on lots abutting the frontage of Kellogg and Ridge Road shall be planned and designed to present a positive visual image to motorists along those streets. Portions of buildings that are visible from these roads shall be earth-tone or other muted colors, with primary colors used only for incidental trim. Rooftop mechanical equipment and outdoor loading, work, and storage areas that are visible from these roads shall be screened from view unless it would be prohibitively expensive due to grade differences, in which case trees shall be planted and maintained as necessary to obscure these views. All building plans must be approved by the Planning Director as to compliance with these requirements.
5. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning is "LC" Limited Commercial to the north, east and west, and "LI" Limited Industrial south of Kellogg. Nearby properties in Ridge Plaza are developed with business services, offices, a gymnastics school, and multi-tenant office buildings. Also, a hotel and two restaurants are nearby on a parcel with visibility to Kellogg.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable

primarily for the non-retail types of "LC" uses because of the indirect access to Ridge Road and Kellogg. It is not expected that retail-oriented shopping/office uses would be located on these interior parcels.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment does not alter the permitted height of 80 feet, although this height might be restricted due to airport hazard height limits. Also, it does not alter the allowed building coverage or gross floor area on the existing C.U.P. The amount already permitted is substantial, 50 percent in the case of gross floor area, reflecting the policy that more intensive development should be channeled toward major corridors such as Kellogg. However, a conflicting rule is to restrict the amount of people located in areas under main flight paths. Several of the proposed uses (e.g. construction sales and service, warehousing, wholesale and business services) would be expected to have fewer people patronizing the establishments than retail commercial.
4. Length of time the property has remained vacant as zoned: The property has been vacant for over 30 years since its original approval as a C.U.P. It has been platted since 1984. Perhaps the practical difficulties of getting firms to locate so near the flight path has been an obstacle to development and this would be mitigated by rezoning to uses less sensitive to proximity to airport impacts.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the "commercial" designation on *Comprehensive Plan*.
6. Impact of the proposed development on community facilities: The proposed changes should not impact traffic any more than currently permitted uses.

DONNA GOLTRY, staff, presented the staff report and the slides.

PHIL MEYER, agent, stated they agreed with staff recommendations except for item number 4 dealing with screening of rooftop equipment. Warren stated that it would be hard to administer the requirement in question.

KROUT indicated one should not expect to screen everything, but this site is the gateway to the City from the airport. He stated that staff used the word obscure instead of screen, recognizing that this is a difficult situation.

MEYER said he would work with staff to clarify the intent.

KROUT indicated that it could be worked out before the case would be considered by the City Council.

WARREN wondered if the wording could be made voluntary, instead of mandatory.

MICHAELIS stated he was comfortable with staff and the agent working the language out.

MOTION: to approve subject to staff comments except remove the last two sentences of item 4 and with the understanding that the applicant and staff would get together to work out appropriate screening language.

WARREN moved, **ANDERSON** seconded the motion, and it carried unanimously (8-0).

Meeting adjourned at 5:15 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission